United States Court of Appeals

for the Second Circuit

JOINT APPENDIX

76-7295

B

United States Court of Appeals

FOR THE SECOND CIRCUIT

FOR THE SECOND CIRCUIT

CARL A. BEAZER, *et al.*,

Plaintiffs-Appellees-Cross-Appellants,

—against—

NEW YORK CITY TRANSIT AUTHORITY, *et al.*,

Defendants-Appellants-Cross-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

Volume VI — Pages 2691a–3193a

ALPHONSE E. D'AMBROSE
Attorney for New York City Transit Authority and related transit defendants
370 Jay Street
Brooklyn, N. Y. 11201
212—330-4327

W. BERNARD RICHLAND, Esq.
Corporation Counsel of the City of New York
Attorney for the Civil Service Commission of the City of New York and related defendants
Municipal Building
New York, N. Y. 10007

ELIZABETH B. DUBOIS, Esq.
(Legal Action Center of the City of New York, Inc.)
Attorney for Plaintiffs
271 Madison Avenue
New York, N. Y. 10016
212—679-6502

PAGINATION AS IN ORIGINAL COPY

INDEX

Papers Filed With Court and Opinions of the Court

DOCUMENT	PAGE
Docket Entries	1a
Complaint, filed December 15, 1972	9a
Answer of defendant New York City Transit Authority and related defendants	38a
Answer of Defendant Civil Service Commission of the City of New York and related defendants	45a
Affidavit of Eleanor Holmes Norton in Opposition to Defendant Transit Authority's Motion to Dismiss	49a
Papers relating to Proposed Stay of Proceedings	54a
Letter dated July 20, 1973 to Court from Elizabeth B. DuBois	54a
Affidavit of Elizabeth B. DuBois, dated July 20, 1973	56a
Letter dated August 17, 1973 to Court from John G. deRoos	71a
Affidavit of Harry Bronstein dated July 2, 1973	73a
Plaintiffs' Amended Complaint filed November 9, 1973	81a

DOCUMENT	PAGE
Answer of Defendant New York City Transit Authority and related defendants to Amended Complaint	115a
Transcript of Proceedings October 22, 1974 and February 12, 1975 (re admission into evidence of Plaintiffs' Exhibit 31)	131a
Compilation of Agreed to and Contested Facts Together with Plaintiffs' Submission Regarding Documentation Contained in the Record and update thereto (Plaintiffs' Exhibits 31 and 31A)	154a
Letter of Elizabeth B. DuBois dated October 23, 1974 to Court (with exhibit) (re Postal Service settlement)	250a
Transcript of Proceedings November 27, 1974 (re tour of New York City Transit Authority facilities)	287a
Memorandum of the Court relating to Tour of Transit Authority Facilities held November 13, 1974	292a
Transcript of Proceedings November 27, 1974 (re receipt of additional testimony)	304a
Order of the Court filed January 2, 1975 directing certain experts to appear and testify at trial	317a
Plaintiffs' Memorandum Relating to the Federal Regulation of the Confidentiality of Methadone Treatment Records, dated February 21, 1975	318a

DOCUMENT	PAGE
Plaintiffs' Memorandum Relating to the Structure of the Transit Authority Employment System dated February 21, 1975	333a
Letter of Elizabeth B. DuBois, dated July 29, 1975 to Court (re methadone maintenance treatment programs' confidentiality regulations)	362a
Opinion of the Court, dated August 6, 1975	365a
Permanent Injunction and Judgment, dated May 5, 1976	393a
Opinion of the Court, dated May 5, 1976	397a
Affidavit of Nathaniel Wright, dated September 17, 1976	400a
Affidavit of Daniel Redner, M.D., dated June 14, 1976	404a
Notice of Motion re: Attorneys' Fees	407a
Affidavit of Mark C. Morril, dated October 29, 1976	408a
Exhibits to above affidavit:	
A. Brief summary of Major Services Rendered by Plaintiffs' Counsel	416a
B. Disbursements 5/1/73 to 10/8/76	419a
C. List of Briefs, Opinions, Orders and other papers filed with the Court 12/15/72 to 10/8/76	420a

DOCUMENT	PAGE
D. Resumes of plaintiffs' attorneys	427a
E. Affidavit of Michael Meltsner dated October 29, 1976	431a
F. Affidavit of Arthur Liman dated October 28, 1976	438a
Affidavit of William Josephson dated November 15, 1976	440a
Affidavit of Robert Newman, M.D., dated January 19, 1977	443a
Amended Permanent Injunction and Judgment dated January 24, 1977	447a
Transcript of Proceedings January 11, 1977	453a
Opinion of the Court January 13, 1977 (dictated into record)	481a
Excerpts from Transcripts of Proceedings	523a
Notice of Appeal	2689a

Oral Testimony at Trial and Material Stipulated Into Evidence as Testimony

Witness or Description of Material	*Transcript Date*	PAGE
Curriculum Vitae of Robert L. DuPont, Jr., M.D.		513a
Transcript of Proceedings	10/22/74	523a
Robert L. DuPont, Jr., M.D.	10/22/74	524a
Letter to Eric D. Balber from Harold Trigg, M.D., dated October 14, 1975 (received as testimony)		587a
Letter to Eric D. Balber from Peter Vogelson dated August 27, 1974 (received as testimony)		588a
Carl A. Beazer	10/24/74	590a
	1/13/77	612a
Alfred A. Cave	10/24/74	623a
Francisco Diaz	10/24/74	633a
	2/ 3/75	656a
Jose R. Reyes	10/24/74	664a
Carolyn Hatzis	10/24/74	676a
Curriculum Vitae of Norman B. Gordon, Ph.D.		681a
Statement of Norman B. Gordon, Ph.D. (received as testimony)		684a
Norman B. Gordon, Ph.D.		701a

Witness or Description of Material	*Transcript Date*	PAGE
Curriculum Vitae of Richard D. Blomberg		712a
Richard D. Blomberg	10/24/74	720a
Statement of Robert G. Schluter (received as testimony)		736a
Robert G. Schluter	10/24/74	742a
Charles Douglas Ades	10/24/74	746a
Curriculum Vitae of Paul Cushman, Jr., M.D.		762a
Paul Cushman, Jr., M.D.		764a
Eileen Wolkstein		790a
Curriculum Vitae of Irving Lukoff, Ph.D.		824a
Irving Lukoff, Ph.D.		830a
Malcolm K. Frazier	10/25/74	849a
Wilbur B. McLaren	10/25/74	865a
	12/12/74	942a
	1/28/75	1106a
Statement of Thomas J. Doyle, M.D. (received as testimony)		1145a
Thomas J. Doyle, M.D.	10/25/74	1150a
Statement of Paul J. Kolisch (received as testimony)		1156a
Paul J. Kolisch	10/29/74	1158a

Witness or Description of Material	*Transcript Date*	PAGE
Statement of James Petersen (received as testimony)		1170a
James Petersen	10/29/74	1175a
Statement of Henry D. Biggart (received as testimony)		1207a
Henry D. Biggart	10/29/74	1211a
Louis A. Lanzetta, M.D.	10/30/74	1242a
Curriculum Vitae of Vincent D. Lynch, Ph.D.		1314a
Vincent D. Lynch, Ph.D.	10/30/74	1315a
	2/ 3/75	1403a
Curriculum Vitae of Frances R. Gearing, M.D.		1451a
Frances R. Gearing, M.D.	10/30/74	1456a
Curriculum Vitae of Vincent Dole, M.D.		1480a
Vincent Dole, M.D.	1/ 7/75	1483a
Curriculum Vitae of Harvey Gollance, M.D.		1606a
Harvey Gollance, M.D.	1/ 9/75	1608a
Curriculum Vitae of Mary Kreek, M.D.		1676a
Mary Kreek, M.D.	1/ 9/75	1681a

Witness Description of Material	*Transcript Date*	PAGE
Mitchell S. Rosenthal, M.D.	1/10/75	1733a
Curriculum Vitae of Beny J. Primm, M.D.		1740a
Beny J. Primm, M.D.	1/27/75	1750a
	2/ 3/75	1829a
Paul E. Kerson	1/27/75	1836a
	1/28/75	1891a
Seymour Joseph, M.D.	1/28/75	1901a
Judianne Densen-Gerber, M.D.	1/28/75	1991a
Kenneth J. Jenkins	1/31/75	1998a
Curriculum Vitae of Harold J. Trigg, M.D.		2070a
Harold J. Trigg, M.D.	2/ 3/75	2076a
Elaine Flowers, R.N.	2/ 3/75	2104a
Brenda Brown	2/ 3/75	2138a
Marybelle Perlman	2/ 3/75	2151a
Joyce H. Lowinson, M.D.	2/ 7/75	2182a
Pauline Carson, R.N.	2/ 7/75	2271a
James E. Cook, Jr.	2/ 7/75	2291a
Bernard Bihari, M.D.	2/12/75	2313a
Nathaniel Wright	1/13/77	2376a
Remarks of Trial Court	1/11/77	2384a
	1/13/77	2385a
	1/21/77	2386a

Material Stipulated Into Evidence in Lieu of Trial Testimony

Deposition excerpts designated by Plaintiffs and Defendants PAGE

Louis A. Lanzetta, M.D. 2387a

Wilbur B. McLaren 2467a

Joseph M. Warren 2538a

Harold J. Trigg, M.D. 2596a

William J. Ronan 2652a

David L. Yunich 2669a

Miscellaneous Trial Exhibits

Plaintiffs' Exhibits

5 New York City Transit Authority Impartial Review Board Opinion on Dismissal of Plaintiff Carl A. Beazer 2691a

7 New York City Personnel Policy and Procedure Bulletin 2694a

8 Agendas and Reports of Meetings of the New York City Personnel Council 2696a

9 "Questions and Answers Regarding the Policy of Hiring Former Addicts," issued by the New York City Personnel Council 2718a

10 Medical Standards Promulgated by the New York City Department of Personnel for Certain Job Titles in the New York City Transit Authority 2724a

	Plaintiffs' Exhibits (cont.)	PAGE
11	Operating Principles of the New York State Civil Service Department and New York State Drug Abuse Control Commission on Employment of Treated Drug Abusers and Related Services	2739a
12	List of Job Titles in the New York City Transit Authority	2742a
21	Letter from Rockefeller University dated August 27, 1974 to Eric Balber	2764a
23	Letter to New York City Department of Personnel from Harold Trigg, M.D., dated June 5, 1970	2765a
25	Manhattan and Bronx Surface Transit Operating Authority Record of Plaintiff Malcolm Frasier (excerpt)	2766a
26	Letter of G. Salazar, M.D., to Manhattan and Bronx Surface Transit Operating Authority, dated March 29, 1973	2767a
39	Statement of witness Thomas J. Doyle	2768a
42	Statement of witness Paul Kolisch	2772a
43	Statement of witness James E. Petersen	2774a
44	Statement of witness Henry D. Biggart	2779a
54	List of job positions held by Beth Israel Methadone Maintenance Treatment Program participants	2782a
58	New York City Transit Authority Rules and Regulations	2786a
1007	Affidavit of Mark Morril (p. 3)	2973a

	Defendants' Exhibits	PAGE
K	Carl A. Beazer Transit Authority Record (excerpt)	2975a
L	Jose R. Reyes Transit Authority Record (excerpt)	2980a
M	Vannie Smith Transit Authority Record (excerpt)	2982a
P	Transit Authority "EEO-4" Forms	2985a
U	Report of Councilman Carter Burden Regarding Methadone Maintenance Treatment	2998a
GG1-GG12	Charts Used in Testimony of Wilber B. McLaren	3082a
III	Federal Regulations Regarding the Confidentiality of Methadone Treatment Program Records	3094a
XXX	Report of the Transit Authority Regarding the Transit Authority's Reexamination of the Employability of the Named Plaintiffs, dated July 19, 1976	3101a
AAAA	List of Persons Produced by the Transit Authority Pursuant to the Court's Order of May 20, 1975	3109a
CCCC	Diaz' Employee's Personnel Record	3138a

PAGE

STATUTES AND REGULATIONS

New York State Drug Abuse Control Commission Requirements for Operating a Methadone Program 3140a

United States Food and Drug Administration Rules and Regulations with Respect to Methadone Maintenance Treatment Programs [37 Fed. Reg. 26790 (1972)] 3155a

Federal Regulations Regarding the Confidentiality of Methadone Maintenance Treatment Program Records [40 Fed. Reg. 27802 (1975)] 3173a

Exhibit 5—New York City Transit Authority Impartial Review Board Opinion on Dismissal of Plaintiff Carl A. Beazer

In the Matter of

CARL A. BEAZER : OPINION and RECOMMENDATION

(Towerman - Pass 053030 - Rapid Transit Operations Div. A) : Index No. 21/72

:

----------X

Local 100 of the Transport Workers Union of America (hereafter referred to as the "Union"), requested the Impartial Disciplinary Review Board (hereafter referred to as the "Board") to review the case of Carl A. Beazer. Beazer, a Towerman, was charged with a misconduct for having alledgedly violated Rule 11 (b) of the Rules and Regulations Governing Employees Engaged in the Operation of the New York City Transit System. In a letter dated October 4, 1971, sent to Beazer by the New York City Transit Authority (hereafter referred to as the "Authority"), the Authority stated that Beazer possessed and used narcotic drugs.

On November 26, 1971, the Hearing Referee for the Authority, the Honorable Daniel Gutman, found that the charge against Beazer should be sustained, and recommended that he be dismissed from the Service.

Beazer's case was reviewed by the Board on June 12, 1972. He was represented before the Board by the law firm of O'Donnell & Schwartz, George Maxwell, Esq., of counsel. John G. deRoos, Esq., by Edward Sommers, Esq., Joseph Ward, Esq., and Allen Hausman, Esq., of counsel, appeared for the Authority.

DISCUSSION

Carl A. Beazer has been with the Authority since May 11, 1960. During the approximately 12 years that he has been employed,

he has compiled a good record. He started out as a Car Cleaner and worked his way up to Towerman. He has done his job well and has received a relatively few cautions and warnings for the time that he has been employed.

Beazer was a user of herion. He realized that by continuin to use this drug he would ruin his future. Consequently, he sought help. Through the Veterans Administration, he became a participant in a methadone program. From all of the evidence presented, it would appear that Mr. Beazer handled his job competently while participating in the methadone program.

The question presented is whether Mr. Beazer violated any of the rules and regulations governing employees in the New York City Transit System which would justify his dismissal from the Service.

Rule 11 (b) prohibits employees from possessing or using narcotics except with the written permission of the Medical Director. It is clear from the facts in this case that Mr. Beazer did not have the permission of the Medical Director to use methadone. Where an employee uses narcotics without the permission of the Medical Director, it has long been the policy of the Authority to dismiss such an employee. Consequently, on the basis of Rule 11 (b) and the past practice of the Authority, there is sufficient basis for dismissing Carl A. Beazer.

This Board has great sympathy and admiration for Mr. Beazer. He realized that he had a problem and he did something constructive about it. The Board, however, does not make the rules and regulations of the Transit System. They are the responsibility of others. Our job is solely to interpret those rules in the

light of the facts of any particular case. Here, the facts spe out that Mr. Beazer has violated a rule and, in accordance, wit a long-standing policy of the Transit System, must be dismissed.

The Board feels that it is incumbent upon the Union and the Authority to reconsider the rules and practices of the Transit System as it relates to drug users. They should particularly examine the merits of the relatively new methadone program. Perhaps, through their careful consideration of the drug problem as it relates to the employees of the Authority, they will find a way to help employees, such as Carl Beazer, who have struggled so valiantly and well to overcome the drug habit.

RECOMMENDATION

The Board recommends that the recommendation of the Hearing Referee dismissing Carl A. Beazer from the Service be sustained. The Board further recommends that the Union and the Authority immediately address their attention to rules and regulations of the Transit System involving the use of drugs to determine to what extent, if any, they should be revised in the light of modern medical and scientific advances in the treatment of drug usage. Moreover, it is the recommendation of this Board, that if it is found that an employee using methadone can work in some capacity for the Authority, the Authority take whatever steps that are necessary to reemploy Carl A. Beazer.

Dated: New York, New York
June 29, 1972

IMPARTIAL DISCIPLINARY REVIEW BOARD
NEW YORK CITY TRANSIT SYSTEM

Samuel Pierce
Chairman

[illegible]
Member

Exhibit 7—New York City Personnel Policy and Procedure Bulletin

ISSUE NO. 4-72

THE CITY OF NEW YORK

DEPARTMENT OF PERSONNEL

CLASS NO. 016-2

PERSONNEL POLICY and PROCEDURE BULLETIN

TO: DEPARTMENT AND AGENCY HEADS

DATE. March 22, 1972

SUBJECT: City Policy on Employment of Ex-Drug Addicts

In response to the Mayor's deep interest in the effectiveness of the City's programs for the treatment and rehabilitation of drug addicts, the Personnel Council undertook an intensive study of the employability of ex-drug addicts. On the basis of its study, the Personnel Council formulated the below-stated policy on the employment of ex-drug addicts. This policy was cleared with the Mayor's Narcotics Control Council and approved by the City Personnel Director and the City Civil Service Commission. It is now being promulgated for the guidance of City agencies. As indicated in the policy statement, the Department of Personnel will cooperate fully with agencies in providing examination and training materials, guidelines, and assistance to enable them to place qualified ex-drug addicts in City jobs.

POLICY ON EMPLOYMENT OF EX-DRUG ADDICTS

The human suffering and social and economic loss caused by rising drug addiction are matters of deep concern to the Mayor. His administration has been conducting intensive and expanding programs with a two-fold objective in combating this problem: (1) to protect the City's residents against the spread of narcotics addiction, and (2) to treat and rehabilitate those addicted. Experience with well-organized treatment programs conducted over the past several years has demonstrated that a high percentage of drug addicts may be successfully rehabilitated and restored to normal patterns of living. However, this experience also confirms that the assurance to the addict of gainful and rewarding employment is an essential motivating force for undertaking and completing treatment for his addictive habit.

The public service and private industry have an obligation to provide employment opportunities to these ex-addicts if the spread of this disease is to be stopped. Public service, and the City government in particular, must take a leading role in opening up employment opportunities to the former addicts. An example should be set for private industry to follow where it is not now employing such persons.

Accordingly, the following policies on the employment in Mayoral agencies of ex-drug addicts are established by the Department of Personnel and the City Civil Service Commission. These policies will be applied by the City Personnel Director and the City Civil Service Commission in determining the qualifications of individuals for appointment and for retention in the City's Civil Service, and in establishing medical and physical standards for appointment in the classified services. For purposes of these policies, the term "ex-drug addicts" shall include both those persons who are drug-free as well as those participating in recognized chemotherapeutic treatment programs such as Methadone Maintenance.

(Over)

INQUIRIES: Information Division (566-8700)

SUBJECT CODE: 016 - Discrimination in C.S. Appointments and Promotions

DISTRIBUTION: H-FO-ALT- T&L-AO

Px 7

1. A history of drug addiction shall not in itself constitute a bar to employment in any City position, except as provided in paragraph 3 below. Thus, where an applicant for City employment has a history of drug addiction, his case will be considered on its own individual merits. In addition to the regular qualifications for appointment, consideration will be given to whether the applicant has undergone or is undergoing treatment and any other evidence of rehabilitation or recidivism.

2. The Department of Personnel will provide City agencies operating drug addiction treatment programs, at their request, examination schedules, job specifications, available training aids, and such additional material that will be helpful in placing ex-addicts in City jobs. The Department of Personnel will also assist those agencies in placing qualified ex-addicts in appropriate City positions.

3. Appointments to the uniformed services will continue to be governed by current medical and physical standards. The City Civil Service Commission will review periodically the positions for which a history of drug addiction will bar appointment or retention, with a view to removing or adding positions where its findings warrant such action.

4. Guidelines will be prepared to advise supervisory staff on handling personnel problems related to drug addiction. When making their selection for permanent and temporary appointments, Mayoral agencies are urged to apply policies consistent with those presented above.

* * * * *

IMPLEMENTATION PROCEDURES OF DEPARTMENT OF PERSONNEL

a. The Bureau of Recruitment will provide drug treatment agencies with examination and training materials for use in helping ex-drug addicts to qualify for City jobs. (566-8750)

b. The Bureau of Career Development will prepare guidelines and train supervisory staffs in handling personnel problems relating to drug addiction. (566-8814)

c. The Bureau of Examinations will submit for review by the City Civil Service Commission each new Notice of Examination and medical requirements where a history of drug addiction bars appointment. (566-8757)

d. The Information Division of the Department of Personnel has established a central clearing house to handle inquiries regarding the foregoing policies and related problems. (566-8700)

Harry I. Bronstein
City Personnel Director

Exhibit 8—Agendas & Reports of Meetings of the New York City Personnel Council

Exhibit 53454

PERSONNEL COUNCIL

THE CITY OF NEW YORK

DEPARTMENT OF PERSONNEL

220 CHURCH STREET, NEW YORK, N.Y. 10013

AGENDA FOR SPECIAL MEETING ON OCTOBER 14, 1971

This special meeting has been arranged in response to the Mayor's deep interest in the effectiveness of the City's Methadone and other programs for the treatment and rehabilitation of drug addicts.

The subject for this special meeting is:

THE NATURE OF THE CITY'S METHADONE AND OTHER TREATMENT PROGRAMS AND THE EMPLOYABILITY OF PATIENTS UNDER DRUG ADDICTION TREATMENT

Speakers at this meeting will be:

Hon. Graham Finney, Commissioner, Addiction Services Agency

Dr. Robert Newman, Director, NYC Methadone Maintenance Treatment Program

Mr. Robert Troiano, Director of Community and Agency Affairs (MMTP)

Mr. Roger Ziman, General Counsel, Addiction Services Agency

Exhibit 8

PERSONNEL COUNCIL

THE CITY OF NEW YORK

DEPARTMENT OF PERSONNEL

220 CHURCH STREET, NEW YORK, N.Y. 10013

Report on Special Meeting Held October 14, 1971

on

"The Nature of the City's Methadone and Other Treatment Programs and the Employability of Patients Under Drug Addiction Treatment"

Personnel Council Chairman Bronstein opened the meeting by calling attention to the Mayor's deep concern for and interest in the City's programs for the treatment and rehabilitation of its drug addicts. He noted the recent publicity given to the dismissal by the Transit Authority of an employee when this employee informed the T.A. he was receiving treatment for drug addiction. This action by the T.A. - a non-Mayoral agency - is in line with the T.A.'s policy of not employing or retaining employees who are, or have been, drug addicts regardless of treatment history.

With the City spending millions of dollars annually for the treatment of drug addiction, the question is raised whether this represents sheer waste of money and time if employment is barred to persons under treatment solely because of a history of drug addiction. The purpose of this special meeting, Mr. Bronstein stated, was to study the problem of drug addiction and the employability of persons treated for addiction and to develop a personnel policy that could be applied by City agencies in the employment of persons with a history of addiction. Such a study should consider whether employability should be determined for individual classes of positions or on an overall basis for all City positions.

Addiction Services Commissioner Finney, in his address, stated that of the 18,500 drug addict patients under treatment, 55% were in the Methadone program and 45% in other treatment programs. The keystone in all treatment programs, he pointed out, was achieving the ability to return to a job. In negotiating with employers for jobs for patients, the Addiction Services Agency directs its efforts at removing prohibitions to the employment of ex-addicts and changing attitudes against such employment. In his view, each addict should be considered for employment solely on the basis of his merits, just as any other job applicant.

In describing the Methadone treatment program, Dr. Newman stated that it was a voluntary program, in which the patient enters voluntarily and leaves voluntarily. The prerequisite for successful treatment, Dr. Newman stated, is that the patient be convinced that his life under treatment is better than his life prior to treatment. This conviction will be eroded by the patient's inability to obtain employment or other needed services and may ultimately result in his returning to his former habits. Dr. Newman stated that Methadone does not produce any of the effects of narcotics: the patient doesn't get "high"; he has no craving for more drugs; there are none of the psychological effects that go with drug addiction. He must, however, be strongly motivated to continue his treatment, and in Dr. Newman's view employment is a strong incentive.

Mr. Troiano stated that New York City is the national leader in the Methadone maintenance treatment program. The problem that confronts the City is to achieve a leading role in rehabilitation. With some 3000 patients under Methadone treatment and a waiting list of 7,000 that may expand to 11,000, the drug addiction treatment program is becoming a major one. At present there is a waiting list of 1500 patients who are ready for employment, with 100 being added each month. He suggested that each agency make a commitment to employ a specific number of patients. He added that a policy on employment of drug addict patients be established and implemented. His agency has a large labor pool to meet many manpower needs.

Mr. Ziman stated that a survey was conducted of civil service rules and regulations and of licensing statutes to determine what bars exist in present laws to the employment or licensing of ex-addicts. This revealed few bars to such employment or licensing. There were bars in some cases to persons who were convicted of felonies, in either drug cases or drug related cases.

Questions and Answers

Q - Since a felony disqualifies a person by law for appointment in the uniformed forces of the Police and Fire services, what action, if any, should be taken in the case of felonies resulting from drug-related felony acts?

A - (Ziman) - In his view, legislation could be adopted expunging such felony convictions from the records under certain conditions.

Q - Should consideration for employment be based on eligibility for specific classes of positions or should it be on an all-inclusive basis?

A - (Newman) - He felt that an ex-addict should be considered for all jobs. The other speakers agreed with him.

Q - Should ex-addicts be considered for provisional and Emergency Employment Act jobs?

A - They can be considered for these temporary jobs, but should also be considered for permanent appointments. However, civil service rules require the taking of competitive tests and appointment on the basis of rank on list.

Q - Are there any statistics on recidivism for ex-addicts?

A - (Newman) - The Beth Israel Program covering a 7-year period shows a retention rate of 80-82% (The City's Methadone Maintenance Treatment program shows a 95% rate of retention)

Q - What happens when an ex-addict returns to his former habit?

A - (Newman) - There is never a guarantee that an ex-addict will not return to his former habit.

Q - Is treatment for drug addiction similar to that for diabetes?

A - (Newman) - No. Treatment for diabetes is more difficult, since the patient must be tested frequently and doses changed from time to time. In the case of Methadone, the patient needs only a constant, unvarying amount.

Q - Can we set aside in the Non-Competitive class certain positions to be filled by ex-addicts in the same manner that N/C positions were established for the retarded?

A - (Bronstein) - The answer is "No" for several reasons. Special legislation was passed for the retarded positions; the number was limited to 100; the jobs made available are low-level dead-end jobs.

Q - Can federal funds be obtained to cover the salaries of ex-addicts employed by City agencies?

A - (Bronstein) - Budget's answer would probably be "No."

Q - Certain classes of positions, such as Correction Officers, expose the incumbents to many stress situations. Should this be considered in determining whether an ex-addict should be employed in such a job?

A - (Newman, Phillips, Troiano) - Each job applicant should be considered on the merits of his background and competence. The ex-addict should be treated in the same manner that a non-addict job applicant is treated. The employment background of ex-addicts run the gamut of all types of employment experiences.

Q - What is the race and average age of addicts under treatment?

A - The average age is 26. The racial background is 40% Black, 40% White, 20% Puerto Rican.

Q - Are there any civil service restrictions on the employment of ex-addicts?

A - (Bronstein) - The Administrative Code and the Public Housing Authority law do set up employment restrictions with respect to character, use of drugs and felony convictions. The Corporation Counsel will be consulted on legislation. The committee to be established to study the employability of ex-addicts should come forth with a proposed policy within a month. Members would be asked to volunteer for this committee.

Q - What are the Methadone treatment hours?

A (Newman) - The hours vary, depending on the patients work hours. Where a patient has proven cooperative and reliable, he may be given 1 or 2 week's supply to be self-administered.

Q - If 80% of the ex-addicts adhere to Methadone treatment, what happens to the remaining 20%?

A (Newman) - Some of the 20% may undergo treatment for complete drug free state. The experience of the City's Methadone Maintenance Treatment program is that 95% remain with the maintenance program.

Q - Does the Methadone Maintenance Treatment Program alert employers of ex-addicts in that program when an employee leaves the program? If not, why not?

A (Newman) - At present, no procedure has been established to convey such information to employers. The patient-doctor relationship inhibits such action. (The point was made, however, that the employer who puts himself on a limb is entitled to that information. The point was also made that a person seeking insurance does authorize his doctor to supply medical information about him to the insurance carrier, which is analogous to the employer-ex-addict relationship.)

Q - If a patient leaves the Methadone Maintenance Treatment program, does that mean he has returned to his drug habit?

A (Newman) - No. He may have entered a drug-free regimen.

— — — — — —

Member - Agencies generally do not know whether an eligible has a record of dope addiction since the investigation of his background and arrest record is made by the Department of Personnel. Accordingly, appointments of ex-addicts may unknowingly be made by agencies.

Member - While the uniform forces of the Police and Fire Services may present special cases, the bulk of City employment should not present any problems. Agencies must find ways to hire the ex -addict. The Mayor is committed to a program that will rescue the addicts and restore them to normal living. If necessary, he should be given preferential treatment.

It was stated that the Mayor desires an "aggressive" hiring policy rather than a "preferential" hiring policy.

Council Chairman Bronstein stated that the difficulties in formulating an effective policy were recognized. He said that a policy could be developed that will respond to the Mayor's objectives. Such a policy could be developed within a month.

The following volunteers were placed on the committee:

Jack Birnbaum, Correction
Edward Kline, MSA
Paul Zimmerman, EPA
Fran Morris, Law
Michael Dontzin, Mayor's Office
Harriet Michel, Mayor's Office
James Smith, City Civil Service Commission
Harry I. Bronstein, Department of Personnel

Roger Ziman of ASA and Dr. Robert Newman of MHTP will participate as resource personnel. The first meeting will be held Monday or Tuesday, October 18 or 19.

Exhibit 8

[illegible] Harriet Michel and [illegible] and Messrs. H. Bernstein, W. Firestone, I. Hinkle, P. Milne, James Reilly, M. Troiano, R. Wilson, and P. Zimmerman

[illegible] A. Coleatora

BEST COPY AVAILABLE

The following presents a digest of the items considered and discussed at the meeting of the Personnel Council Committee on the Employability of Ex-Addicts, held Tuesday, October 19, 1971 at 4:00 p.m. in the Office of the City Personnel Director.

1. Chairmanship - Harriet Michel accepted the chairmanship of this committee.

2. Employability of Ex-Addicts - A policy on the employment of ex-addicts could be established along the lines established for the employment of homosexuals, i.e., on the basis of merit and character. The City Civil Service Commission has taken a position along these lines. One member pointed out that he saw no problem in employing ex-addicts if (1) they are processed in the same manner as other job applicants and (2) the employing agency is furnished a medical certification that the ex-addict is medically fit to perform the job duties. It was suggested that the candidate supply on his application information on arrests for drugs.

   It was brought out that just as in the case of the employment of [illegible], certain jobs could present a hazard to the individual where there may be danger to himself or others arising from his [illegible]. These, for example, could include Correction Officer jobs in institutions where many inmates are drug addicts. There could be undue pressure on the ex-addict to supply inmates with drugs, or in the case of a storeroom job where drugs are stored. It was also brought out that in such shortage areas as Engineer and Cleaner, appointments could be made immediately where budget authorization was available.

3. Employment by Private Industry - Mr. Troiano stated that his agency solicits the support and cooperation of private industry and demonstrates to prospective employers that ex-addicts can be productive.

4. Health and Hospitals Corporation Policy - It was reported that the Hospitals Corporation was developing a policy on the employment of ex-addicts, but would not disclose its policy. It was noted, in this connection, that Dr. Trussel has supported the employment by Hospitals of ex-addicts as practicable and worthwhile.

5. Short-Range and Long-Range Employment Goals - Short-range employment goals, it was noted, could be achieved through provisional and NEO appointments, as well as in such non-competitive appointments as Institutional Aides, Nurse's Aides, etc. The flaw in these areas of employment, particularly in the provisional and NEO jobs, is that these jobs may be of short duration and result in great harm to the morale of the ex-addict when his services must be terminated.

   The long-range employment goal promises greater and longer-lasting benefits to the ex-addict. This goal envisions entry into the City service on a permanent basis with opportunities for advancement.

However, there are several hurdles to the attainment by the ex-addict of permanent tenure. He must compete with all other applicants in an examination where the competitive examination is held for a specific title, if he is otherwise qualified. He must also achieve a high enough passing mark on the examination to be reached for appointment from the eligible list. Further, competition is generally limited to the entrance level in an occupational field, with advancement based on participation in a competitive promotion examination.

6. Policy Statement and Implementing Program - It was agreed that the Personnel Council should submit to the Mayor (1) a policy statement on the employment of ex-addicts and (2) a concrete program for getting City jobs for them, with some 50 to 100 jobs being made immediately available.

With respect to the policy statement, that presented no problem. A statement could be drawn up quickly. With respect to the program for implementing the policy, both the short range goals and the long range goals would have to be acted upon., Two major obstacles to the implementation of the policy were discussed. They were:

(a) The need for information on the educational and experience backgrounds of the employable ex-addicts for use in determining their qualifications for specific City jobs, and

(b) The freeze on hiring, due to the City's tight financial position, which is expected to continue for a long time.

On the matter of the qualifications of employable ex-addicts, Mr. Troiano stated that he had 1,000 such persons listed in his files on key-punched cards. He would supply the City Personnel Director, by Friday October 22nd. with a listing of each such person showing age, address, education, and experience for each person. This information will be summarized and made available to Personnel Council members prior to the November Personnel Council meeting so that the members could state at that meeting what job opportunities his agency had. The City Personnel Director offered to supply the addiction service agencies our tentative examination schedule for 1971-72 for use in training employable ex-addicts and guiding them in obtaining City employment.

On the matter of the freeze on appointments, Mr. Dontzin agreed to take this matter up with the Director of the Budget and the Mayor when the specific jobs are made available. Mrs. Lubatkin of HRA should be contacted on EEO jobs, since considerations must be given to veterans and residents in specific areas.

7. Summary of Actions to be taken

a. Policy statement to be prepared.
b. Resume to be submitted to the Personnel Director by Mr. Troiano, showing age, address, education, and experience for each of 1000 employable ex-addicts.
c. Meeting of committee to be held before November 8 meeting of Personnel Council.
d. Personnel Council members to be given a summary of background

of employable ex-addicts to enable them to estimate the number they could employ and in what types of jobs.

2. Personnel Council members to be canvassed on Item "d" above at the November 8th Personnel Council meeting.

2705a
Exhibit 8

Item # 53157

Summary Report on Personnel Council Addiction Committee Meeting held Thursday, November 4, 1971 at 4:00 p.m. in the Office of the Personnel Director

Participants: Misses H. Michel, F. Morris, and Messrs. H. Bronstein, [illegible] Smith, W. Welling (for Mr. Kline), P. Zimmerman, R. Troiano and R. Zinn

The following is a digest of the actions agreed to at this meeting:

1. Canvass of P.C. Members at November 8th Meeting - Members were sent the listing by occupational background and age and education of employable persons in the Methadone treatment program. The Addiction Service Agency will submit for the Monday meeting a list of employable persons on the drug-free treatment program. Members will be canvassed at that meeting on the number of such persons their agency will be able to employ.

2. Status of Eligible Lists and Examination Schedule for 1971-72 - Members are to be furnished with a list of titles for which provisional appointments may be made because no list is currently available. They are also to be furnished a copy of the tentative examination schedule for 1971-72.

3. Priorities in EEA appointments - The purpose of this Act is to provide employment to the unemployed and the underemployed, with particular reference to those living in deprived areas. Priority in appointments are to be given to (1) veterans and (2) heads of families.

4. Selection of Persons for Appointment - Mr. Troiano considered the employment of 100 ex-addicts at the initiation of this program to be a good response. It was pointed out that those referred for appointment should be carefully screened by the referring agency before being sent to the City agency for an appointment interview. The entire program may be endangered if an appointee should prove to be a highly undesirable person.

   It was noted that Miss Lubetkin of HRA has been processing applications for appointments under the EEA program. The question was raised as to whether there would be openings remaining for employment of ex-addicts. This information should be obtained from HRA.

5. Civil Service Medical Standards - It was pointed out that the medical and physical standards for the uniformed forces of the Police and Fire Departments established by the City Civil Service Commission requires rejection of candidates for those positions for the presence or history of drug addiction or chronic alcoholism. Similarly, the standards for Sanitation man list as a basis for rejection the "excessive use of, or any abusive use of drugs or chemicals which interfere with sensorium." The Transit Authority policy is to dismiss any employee who uses drugs or has a history of their use.

6. Policy Statements - Policy statements could be issued in the form of a Mayor's Executive Order or by a Policy Bulletin issued by the Personnel Director consistent with the Mayor's approved policy - or by issuance of both a Mayor's Executive Order and a Policy Bulletin. These statements may have to be limited to Mayoral agencies, and they may also have to exempt certain titles or categories, such as the uniformed forces of the Police, Fire and Correction departments. They might also bear on continued employment as well as on initial appointment. Miss Michel will follow up on the Mayor's Executive Order (which may enlarge on previous orders covering bars to discrimination in employment); Mr. Bronstein will develop the policy statement to be issued in a Policy Bulletin, after consulting with the Personnel Council membership.

7. Next Meeting of Committee - It was suggested that the Committee meet some time during the week of November 15th, possibly on Tuesday the 16th if the canvass of Council Members is productive.

2707a
Exhibit 8

PERSONNEL COUNCIL

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL

220 CHURCH STREET, NEW YORK, N.Y. 10013

AGENDA FOR MEETING OF NOVEMBER 8, 1971

1. EMPLOYMENT OF EX-ADDICTS

Members were sent a tabulation of employable persons currently in the Methadone Maintenance Treatment Program. A revised tabulation containing additional persons will be made available at the November 8th meeting. The Personnel Council Committee on the "Employability of Ex-Addicts" will report on its discussions and canvass the members on how many of the persons listed in the tabulation can be employed within the immediate future.

2. REPORT OF COMMITTEE ON CIVIL SERVICE REFORM

A brief report on this committee's work will be made by its Chairman.

3. OPEN FOR ADDITIONAL ITEMS RAISED AT THIS MEETING.

NOTE: Suggestions for agenda items should be mailed to the City Personnel Director, Department of Personnel, 220 Church Street, New York, New York 10013. The next meeting will be held Monday, December 6, 1971 at 2:30 p.m. Please note this on your calendar.

PERSONNEL COUNCIL

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL

220 CHURCH STREET, NEW YORK, N.Y. 10013

ACTIONS TAKEN AT MEETING HELD NOVEMBER 8, 1971

1. EMPLOYMENT OF EX-ADDICTS

Personnel Council Chairman Bronstein pointed out the importance of a City policy on employment of ex-addicts to the City's overall program for the treatment and rehabilitation of its drug addicts. The private sector will take its cue from the City in developing its policies on hiring ex-addicts. The Chairman called attention to the revised list of employable ex-addicts that was before each member, and also to the examination schedule for 1971-72 and a selected list of titles for which there were no eligible lists available (for which provisional appointments could be made). He explained the headings on the examination schedule and made some changes in the list of titles for which there were no eligible lists.

In the absence of the chairman of the Committee on Employability of Ex-Addicts, Mr. Goldstone reported briefly on the committee's November 4th meeting. The committee considered it desirable that the Council members be furnished the 1971-72 examination schedule and a list of titles for which provisional appointments could be made. It considered an appointment goal of 100 ex-addicts at the initiation of the program to be a good target. It was noted by the committee that present civil service medical standards mandate the rejection of Patrolmen and Firemen candidates with a history of drug addiction. The standards also list a history of drug addiction as a basis for rejection for Sanitationman. The policy statement to be developed for submission for the Mayor's approval may have to exempt certain titles or categories of titles and be limited to Mayoral agencies.

In response to the Chairman's inquiry, the Council adopted a resolution placing it on record as favoring the employment of ex-addicts as a matter of City policy. A quick canvass of members showed that the Correction department could employ four ex-addicts immediately, with a possibility of additional hirings in the future.

To help in formulating a policy on the employment of ex-addicts, Chairman Bronstein directed several questions at the membership. His first question was: "Should the ex-addict be required to continue his treatment during his employment unless released from therapy as sufficienty cured?" Mr. Troiano pointed out, in this connection, that the Methadone treatment is essentially a life-time treatment. Under the drug-free therapy program, the patient undergoes six to nine months of treatment to free himself of the addictive habit.

In a follow-up question, Mr. Bronstein asked: "Should the ex-addict appointee be required to undergo examinations periodically while employed by the City to insure that he has not returned to his addictive habit?" It was the consensus of the membership that this should not be a condition of employment; that the ex-addict employee should be judged by the same standards that are applied to other employees, namely, job performance. Where job performance indicates that performance is below standard arising from use of drugs, the employee may be dropped if he is a provisional. In the case of a permanent employee, Section 72 of the C.S. Law may be applied (Section 72 provides, essentially, that where an agency finds an employee is unable to perform his duties because of a non-job incurred disability, it may require the employee to be examined by a medical officer selected by the City Civil Service Commission; and if the employee is found to be mentally unfit to do his job, he may be placed on a leave of absence.)

Mr. Russo then raised a question on what action should be taken where a permanent employee is found to be taking drugs. While Section 72 can be applied if the employee's performances is suffering as a consequence, the larger problem was raised on what actions should be taken to help the employee to get off drugs. Mr. Troiano pointed out that the Methadone Maintenance Treatment program is based on voluntary application for treatment; therefore, no employee could be forced to accept its treatment. He had no answer to the question on giving priority in treatment to City employees. It was suggested, and generally agreed on, that each large agency should have an addiction specialist to whom employees could be referred if suspected or known to be drug-users. Personnel Officers could be given training on handling employees suspected of using drugs. The ASA and HSA could conduct training courses for personnel officers.

In summary, the Council members agreed that a history of drug use should not of itself bar employment for most City jobs. Where a permanent employee is found to be using drugs, he should receive counselling and be encouraged to obtain treatment - much in the same manner as an alcoholic is counselled. The Chairman indicated that ASA and HSA could initiate a training course on handling drug addicted employees by having members of their staff talk on this subject at the next meeting of the Inter-Agency Personnel Officers Conference.

The Chairman asked members to submit, within the next few days (1) a list of titles for which they believe a history of drug use should bar from employment, and (2) the number of positions they could fill with ex-addict appointees.

2. REPORT OF COMMITTEE ON CIVIL SERVICE REFORM

Dr. Savas, Chairman of this Committee, reported that half the agencies had turned in completed questionnaires, with some replies fully responsive while others contained little information. He urged that the remaining questionnaire be sent to him.

3. PROCESSING MAQ's (Managerial Appraisal Questionnaires)

In response to an inquiry on procedures for contesting the appraisal of a managerial position, the Bureau of the Budget pointed out that the agency could review the tentative evaluation with the Department of Personnel and the Bureau of the Budget before the final evaluation is made. The tentative evaluation could be discussed with the department's Budget Examiner before such final review.

MEMBERS ATTENDING

Jack Birnbaum (Corr.)
Leslie M. Booth (Tran. Admin.)
James A. Cavanagh (Budget)
John Forrer (HRA)
Edward V. Kline (HSA)
Burton A. Pierce (HDA)
Peter S. Richards (City Plan.)
Anthony C. Russo (OLR)
E.S. Savas (City Admin.)
Henry J. Stern (Cons. Aff.)
Harry S. Tishelman (Finance)
Alexander Wirin (Parks)

Members Absent

Vincent M. Canty* (Fire)
Preston David* (Hum. Rts.)
Michael Dontzin (Mayor's Office)
Marcus Levy* (HA)
Michael J. Lonergan* (Police)
Norman Redlich* (Law)
Walter F. Sweeney*, Jr. (EDA)
James J. White* (HSA)
James W. Randolph (Invest.)
Paul Zimmerman* (EPA)

AGENCY OBSERVERS*

Robert J. Cabona (EPA)
Geroge A. Wallace (Fire)
Arthur Rosenbaum (Budget)
Karen Belinsky (Mayor's Office)
Frances Morris (Law)
C.G. Sheahan (HA)
R.M. Somers (EDA)
Philip A. Mahlke (Police)
James McEvoy (Police)
David Yudin (HSA)
Robert Troiano (MMTP)

DEPARTMENT OF PERSONNEL

Personnel Director Bronstein, James Smith, Benjamin C. Oill, Leo Gruskin, Solomon Wiener, N. Dworkin, Richard Unger, Arnold deMille, Allen Adler, Abraham Goldstone

PERSONNEL COUNCIL

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL

220 CHURCH STREET, NEW YORK, N.Y. 10013

AGENDA FOR MEETING OF DECEMBER 6, 1971

1. IMPACT OF PHASE II POST-FREEZE ECONOMIC POLICY ON CITY

DISCUSSANT: James Ruth, Assistant Director of the Budget

Mr. Ruth will give a brief run-down of the federal guidelines that have been clarified on pay and price limitations affecting the City's fiscal operations.

2. EMPLOYMENT OF EX-ADDICTS

The Committee on the "Employability of Ex-Addicts" has submitted to the Council, for discussion and adoption, the Committee's proposed policy on employment of ex-addicts (copy attached). The Personnel Council should reach agreement at this meeting on the policy to be submitted to the Mayor for approval.

3. REPORT ON PHASE I OF CITY WIDE PERSONNEL DATA SYSTEM FEASIBILITY STUDY

The Office of the Deputy Mayor-City Administrator has been conducting a feasibility study of a City-wide personnel data system. A preliminary report on the objectives of this study was made at the June 7th meeting. The task force has now completed Phase I and will report its findings and progress made.

4. COMMITTEE REPORTS

The Chairman of the several Personnel Council committees will report on their committee activities.

5. OPEN FOR ADDITIONAL ITEMS RAISED AT THIS MEETING

NOTE: Suggestions for agenda items should be mailed to the City Personnel Director, Department of Personnel, 220 Church Street, New York, New York 10013. The next meeting will be held Monday, January 10, 1971 at 2:30 p.m. Please note this on your calendar.

Exhibit 8

Personnel Council of the City of New York

INFORMATIONAL ITEMS

December 6, 1971

1. Christmas and New Year's Holidays - These two holidays fall this year on Saturday. With respect to time off for Career and Salary Plan employees in lieu of the Saturday holiday, agencies should grant time off with pay to its Career and Salary Plan employees on the Friday preceding Christmas and New Year's Day, in lieu of the Saturday holiday. However, where the agency head deems it necessary, he may keep his offices open on Friday and schedule part of his staff to take time off on Friday and the other part to take time off on the succeeding Monday, in lieu of the Saturday holiday.

2. Proposed Projects under Intergovernmental Personnel Act of 1970 - The Department of Personnel submitted seven proposals for project grants under the Intergovernmental Personnel Act of 1970 to the New York State Office for Local Government, which is coordinating the program for the entire state. It has been informed that these proposals will be included in the statewide program. The following are the working titles of the proposed projects:

   Development of a Personnel Data System for the City of N.Y.
   Development of a Model Test Validation Program
   Improving "In-House" Capabilities for Training in Agencies
   Reevaluation Study of Job Classification Structure
   Study of the New York City Department of Personnel
   Validation of Physical Tests
   Personnel Management Development Program

   Agencies will be called upon to participate in the development and implementation of projects in which they are directly affected.

3. Recent Rule Changes

   (a) Amendment to Rule 5.2.4 on Probationary Period - As proposed by the Personnel Council, Rule 5.2.4 was approved and became effective November 3, 1971. It establishes a minimum probationary period of two months for o/c appointments and four months for promotion. A probationary employee's services in a title may be terminated at any time between the minimum and the full probationary term for this title by notice to him and to the City Personnel Director.

   (b) Amendment to Rule 4.5.6 on tie-breaks - This amendment eliminated performance as a factor in resolving tie scores in examination ratings. It became effective October 12, 1971.

2714a
Exhibit 8

PERSONNEL COUNCIL

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL

220 CHURCH STREET, NEW YORK, N.Y. 10013

ACTIONS TAKEN AT MEETING HELD DECEMBER 6, 1971

1. IMPACT OF PHASE II POST-FREEZE ECONOMIC POLICY ON CITY

Assistant Director of the Budget James Ruth, in reviewing the Phase II economic policy, stated that it has become more difficult to get specific information from the federal authorities. He did point out that fringe benefits were included in the 5.5% pay increase limitation and that the 5.5% maximum increase applied to collective bargaining units, or to what has been deemed a standard unit for pay determinations. Merit increases are not included in the 5.5% limitation, so long as they are based on an established historical pattern. Further clarification is still needed on merit increases.

The matter of retroactivity in pay increases is still unresolved. The criteria covering promotional increases remain the same as during the freeze period. The Bureau of the Budget and the Law Department will issue guidelines, as soon as clarification is made on unresolved items.

2. REPORT ON PHASE I OF PERSONNEL DATA SYSTEM FEASIBILITY STUDY

Dr. Savas introduced this subject by pointing out that the Personnel Data System (PDS) could become operational in about 15 months. The project committee making the study was interested in getting feedback from the operating agencies on what aspects of the system they were particularly interested in.

Miss Betsie Robertson, Assistant Director of the PDS project, gave a quick run-down of the first phase of the PDS study, using a flip chart to clarify the data being presented. Her presentation covered the methodology of the study, an outline of the system for collecting personnel data, maintaining the data base and retrieving information from the data base, and the benefits anticipated from the use of this new system.

This Personnal Data System is to be developed with the aid of federal funds provided under the Intergovernmental Personnel Act of 1970. The project is being submitted through the State to the Federal Government for approval and such approval is expected shortly.

3. EMPLOYMENT OF EX-DRUG ADDICTS

Copies of a proposed policy on employment of ex-drug addicts, developed and approved by the Personnel Council Committee on Employment of Ex-Drug Addicts, were distributed to Council members. A number of charges were proposed. Dr. Newman objected to paragraph number 3 of the policy statement which stated that the employment of ex-drug addicts will continue to be barred where current medical and physical standards so require. The action taken on specific motions to amend the proposed policy statement follow:

a. The motion to substitute the word "problem" for "contagion" on line 4 was adopted

b. The motion to defer action until the next month's meeting was lost.

c. The motion to delete the last sentence in the proposed policy statement was adopted. The deleted statement read: "In reaching a determination with respect to an ex-addict, appointing officers should consider the importance of employment in the rehabilitative process for such persons as well as the requirements of the position to be filled."

d. The motion to delete the first sentence in paragraph #1 was lost.

e. The motion to delete the remaining statement in paragraph #4 was lost.

f. The policy statement, as amended, was adopted by the Personnel Council for submission to the Personnel Director, the City Civil Service Commission, and the Mayor.

4. COMMITTEE REPORTS

a. Committee on Amending Section 75 of C.S. Law - Committee Chairman Samorodin stated that the proposal on suspension pending determination of charges did not get out of committee. It will be re-submitted this year.

b. Committee on Criteria for Granting Increases - Acting Chairman Klein stated that the committee was awaiting clarification under Phase II on the granting of merit increases.

c. Committee on National Civil Service League's Proposed Model Civil Service Law - Chairman Savas stated that the report is being drafted and should be ready within a few weeks.

MEMBERS ATTENDING

Jack Birnbaum (Corr.)
Leslie M. Booth (Tran. Admin.)
Vincent M. Canty (Fire)
Preston David (Hum. Rts.)
John Forrer (HRA)
Edward V. Kline (HSA)
Burton A. Pierce (HDA)
Peter S. Richards (City Plan.)
Anthony C. Russo (OLR)
E.S. Savas (City Admin.)
Harry S. Tishelman (Fin. Admin.)
Alexander Wirin (Parks)
Paul Zimmerman (EPA)

MEMBERS ABSENT

James A. Cavanagh* (Budget)
Michael Dontzin (Mayor's Office)
Marcus Levy* (HA)
Michael J. Lonergan* (Police)
Norman Redlich* (Law)
Walter F. Sweeney, Jr.* (EDA)
James J. White* (HSA)
James W. Randolph (Invest.)
Edwin Greenidge (HDA)

AGENCY OBSERVERS

Philip A. Mahlke (Police)
James McEvoy (Police)
Arthur R. Rosenbaum (Budget)
Bert Coudriez (Budget)
Julius Cohen (Comptroller)
Cornelius G. Sheahan (HA)
Harry Lipton (Dep. Mayor-City Admin.)
Betsie Robertson (Dep. Mayor-City Admin.)
George A. Wallace (Fire)
Frances Morris (Law)
Harriet Michel (Mayor's Office)
Karen Belinsky (Mayor's Office)
Bernard J. Phillips (HSA)
Dr. Robert Newman (HSA)
Robert Smith (HSA)

DEPARTMENT OF PERSONNEL

Personnel Director Bronstein, James Smith, Milton Samorodin, Benjamin C. Oill, William Roskin, Leo Gruskin, Solomon Wiener, Richard Unger, Arnold deMille, Allen Adler, Abraham Goldstone.

Exhibit 9—"Questions and Answers Regarding the Policy of Hiring Former Addicts," Issued by the New York City Personnel Council

Questions and Answers

Regarding the Policy of Hiring Former Addicts

Exhibit 9

Questions and Answers

Regarding the Policy of Hiring Former Addicts

What do you mean by "a former addict"?

A person who used to be addicted to drugs, but who is now drug free - usually because he has successfully completed a long therapeutic rehabilitation program - or whose condition is under control because he is taking part in a recognized treatment program such as methadone maintenance.

Will a former addict eventually return to drugs?

Addicts can be cured. Although some who have becoms abstinent or have been successfully treated do resume drug use, this is often because they are refused acceptance by employers and by society when they try to lead normal, productive lives.

What is the City's policy on hiring of ex-addicts?

Policy and Procedure Bulletin 4-72 issued March 22, 1972 set forth the policy that a history of drug addiction will not in itself constitute a bar to employment in most City positions. Each case will be considered on its merits.

What role does the City Department of Personnel play?

In determining a candidate's eligibility, the Department of Personnel will consider both his job qualifications and whether he has been successfully rehabilitated; for appointment in agencies without medical facilities, it will administer a pre-employment medical examination including urinalysis, which would disqualify current addicts. At the request of City agencies which operate narcotic addiction treatmen programs, the Department will provide examination schedules, job specifications and other material that will help in locating City jobs for former addicts.

How will referrals be made to agencies?

Once a person has passed a regular Civil Service examination and his name is on an eligibility list, his name will be certified to agencies when his list number is reached, without identification as to any previous history.

Can an agency refuse to appoint an ex-addict if it has information about this former habit?

Not for this reason alone, if in other than uniformed services.

How many former addicts will be hired by the City?

There is no quota and no limitations.

Is special care needed in placement?

No.

Will supervisors be expected to do anything different?

No. The former addict is a regular employee who needs no closer attention than any other employee and is expected to live up to the same standards. (Note: It has been a misconception that former addicts need to be watched closely; they do not. They will react to surveillance the same way other employees will.)

Is this true for those on methadone maintenance also?

Yes. The former addict who is now in a methadone maintenance program does not need special attention. His time of attendance at a clinic will be arranged so that he need not take time from work to attend.

Will supervisors need special preparation?

No. Since there is no difference in the manner of supervision, there is no need for special instruction or training. However, this is another opportunity for an agency to consider whether it is satisfied that supervisors are assessing employees properly. Many supervisors will profit from regular supervisory training or other preparation; if your agency has no such program, or would like supervisory guidelines prepared by the Department of Personnel, the Department will be glad to offer help.

Won't former addicts cause supervisory problems?

Any employee may present problems in performance; the point here is that such problems will not occur any more frequently among former addicts than among any other group of employees.

What can agencies do?

City agencies should take a look at their hiring processes to determine at what points former addicts would normally be screened out and make sure that the necessary changes are made. Appointing officers should be alerted not to pass over qualified former addicts automatically if former addiction would be the only reason for not appointing.

What steps should your agency take to communicate policy?

It is expected that problems, should any arise, will flow primarily from lack of understanding. It is therefore recommended that each agency issue a brief written statement, addressed to the head of the agency personnel office and to all employees at the managerial level, informing them that the policy of the City and of the agency is to hire former addicts whose employment has been approved by the Civil Service Commission, and that this will not involve any special considerations or departures from performance standards. An announcement should be made at a regular meeting of top management officials to answer questions which you can expect will be raised. This will also allow consideration of any existing impediments to employing former addicts and how such impediments can be removed.

The personnel officer, or someone he assigns, should be designated coordinator to answer any questions or handle any matters that later arise. This should be noted in the policy statement.

Is training for the coordinator available?

The agency coordinator may want to have more information about the nature of addiction, the nature of rehabilitation, or other matters he feels will help him in his assignment. Such training will be arranged by the Department of Personnel upon request.

What about records?

If there are any records referring to the employee's previous history of addiction, these should, of course, remain confidential, as is other medical and personal information about all employees. It is not necessary for the prospective supervisor to know of the employee's former addiction. It is likely in fact to be undesirable, because the supervisor may expect the employee to exhibit problem behavior and therefore misinterpret behavior or bring about the very situation you are trying to avoid.

Are there any programs relating to other employees who may be addicts or have serious problems interfering with their job performance?

This is an important question; there should be no confusion between previous addicts who are now abstinent - and employees, some of them long-time, who may have developed an addiction after being hired, or who may have serious personal or emotional problems which prevent them from doing their jobs adequately. If your agency has an existing program to recognize and arrange for help for alcoholic employees, you should consider utilizing that program's structure for employees with addiction or severe emotional problems. If you do not have an alcoholism program, you may want to develop one to include these features: policy statement; assignment of responsibilities; selection of a counselor; preparation of supervisors to identify employees with performance problems which may require professional help; and referral for help.

Where can I get more information?

Questions relating to most personnel matters should be addressed to the Personnel Department, Assistant Personnel Director for Administrative Services (566-8742). Requests for copies of these guidelines or training courses should be sent to the Director, Bureau of Career Development (566-8814).

SHARING EXPERIENCES; Since hiring the former addict is a recently adopted policy, the City Department of Personnel is interested in learning what experiences your agency has had in implementing policy, and in receiving suggestions on how it can assist agencies in their efforts to tap this source of highly motivated and in many cases gifted employees.

Exhibit 9

The Story Behind These Guidelines

Responding to the Mayor's expressed concern, the Personnel Council developed a suggested policy on the employment of rehabilitated narcotics addicts in City agencies. It was the Personnel Council's view that hiring former addicts would be beneficial both for the former addict who needed the opportunity to work, and for the agency which would profit from the high motivation of individuals who are concerned with proving their worth. This applies to persons who are drug-free as well as to those currently in chemotherapeutic treatment programs such as Methadone Maintenance. The proposed policy was approved by the Mayor's Narcotic Control Council, the City Civil Service Commission, and the City Personnel Director and formalized on March 22, 1972 in a Personnel Bulletin promulgated by the City Personnel Director. Under this policy, appointments to the uniformed services will continue to be governed by current medical and physical standards. For otherwise qualified candidates, former addiction is not in itself to be a bar to employment in other City positions. This guide is intended to assist agencies in seeing that opportunities to the employment of qualified former addicts are provided in accordance with this City-wide policy.

Exhibit 10—Medical Standards Promulgated by the New York City Department of Personnel for Certain Job Titles in the New York City Transit Authority

APPENDIX D-2

MEDICAL STANDARDS FOR CITY-WIDE TITLES USED BY THE NEW YORK CITY TRANSIT AUTHORITY

(listed alphabetically)

Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical Standards For Sedentary Positions And Other Positions
For Which Sedentary Standards Are Deemed Appropriate

The following shall be causes for rejection for appointment unless otherwise indicated:

1. ALCOHOL--Excessive use of, rejects. History of, may reject.

2. BLOOD PRESSURE--Systolic higher than 160 or diastolic higher than 94. The lowest of three successive readings will be used. History of continued treatment for high blood pressure, may reject.

3. CHEST--Chronic respiratory conditions which cause disability or tend to progress with time, may reject.

4. CHEST X-RAY--Will be required of all appointees. Presence of active tuberculosis or other serious condition revealed by X-ray.

5. COLITIS--Active or recent active, of significant duration (within 1 year).

6. DRUGS--Abusive use of drugs or chemicals such as amphetamines, barbiturates, doriden, phenothiazine, morphine, LSD, heroin or codeine which interferes with sensorium or other functions; rejects. History of such use may reject unless the eligible is successfully participating in a recognized chemotherapeutic program or has satisfactorily completed any other acceptable program and is drug free.

7. EPILEPSY, fainting spells, blackouts, convulsions, vertigo or any condition which interferes with alertness, history of may reject.

8. HEARING--Loss of hearing, in either ear, sufficient to interfere with normal conversation. Use of hearing aid is allowed.

9. HEART--History of heart disease may reject. Significant cardiac abnormality may reject.

10. HERNIA--Presence of. Use of truss may be an acceptable correction.

11. MENTAL HOSPITAL CONFINEMENT or PSYCHIATRIC CARE--History of, may reject. Psychiatric and psychological testing in order to determine employability may be required.

12. NEUROLOGICAL CONDITION or MUSCULAR CONDITION--Any such condition producing weakness, paralysis or incoordination, if it affects ability to perform the duties of the position.

13. SPEECH--Inarticulateness. Any marked speech defect may reject.

14. TUMOR--Presence or history of malignant tumor within past five years, rejects. Presence or history of benign tumor, may reject.

(over)

15. ULCER--History of treatment for peptic, gastric or duodenal ulcer within the past five years, may reject.

16. VENEREAL DISEASE--Presence of, until adequately treated. (Presence of non-specific positive Wasserman will not reject.)

17. VISION--Less than 20/50 both eyes together, eyeglasses allowed. Chronic inflammation of lids or conjunctiva or presence of any disease interfering with vision.

18. WEIGHT--Overweight or Underweight. (The muscular and bone structure and development will be considered.)

19. ANY DISEASE, INJURY or ABNORMALITY which tends to impair health or prevent the performance of duties or would apparently make a poor long range risk.

Dated, February 1, 1973
CITY CIVIL SERVICE COMMISSION
Harry I. Bronstein, Chairman;
James W. Smith and
David Stadtmauer, Commissioners.
George Henry, Jr., Secretary.

Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical and Physical Standards
for
REAL ESTATE MANAGER

The following shall be causes for rejection for appointment unless otherwise indicated:

MEDICAL

1. ALCOHOL--Excessive use of, rejects. History of, may reject.

2. AMBULATION--Existence of an orthopedic, neuromuscular, neurological or other impairment. History of back condition may reject.

3. BLOOD PRESSURE--Systolic higher than 160 or diastolic higher than 94. (The lowest of three successive readings will be used.) History of continued treatment for high blood pressure may reject.

4. DRUGS--Abusive use of drugs or chemicals such as amphetamines, barbiturates, doriden, phenothiazine, morphine, LSD, heroin or codeine which interferes with sensorium or other functions; rejects. History of such use may reject unless the eligible is successfully participating in a recognized chemotherapeutic program or has satisfactorily completed any other acceptable program and is drug free.

5. HEARING--Inability to hear a conversational voice. Use of hearing aid is allowed.

6. HEART--History of heart disease may reject.

7. HERNIA--Presence of. Use of truss is not allowed.

8. NEUROLOGICAL CONDITION or MUSCULAR CONDITION--Any such condition producing weakness, paralysis or incoordination if it affects ability to perform the duties of the position.

9. PSYCHIATRIC--History of a mental or nervous ailment may reject.

10. RESPIRATORY SYSTEM DISEASES, such as active tuberculosis, chronic emphysema or silicosis, pulmonary fibrosis, chronic bronchitis, asthmatic bronchitis or bronchiectasis; presence of rejects. Other lung conditions such as arrested tuberculosis, may reject.

11. SPEECH--Inarticulateness or any marked speech defect may reject.

12. VARICOSE VEINS--Presence of enlarged, until corrected.

13. VISION--Less than 20/50 both eyes together, eyeglasses allowed.

(Real Estate Manager)

14. WEIGHT—Overweight or Underweight. (The muscular and bone structure and development will be considered.)

15. ANY DISEASE, INJURY or ABNORMALITY which, in the opinion of the Medical Examiner, would tend to impair health or prevent performance of duties.

PHYSICAL

1. STAIR-CLIMB—Inability to walk up 82 steps (approximately 10 short flights of stairs) and return to the starting point within 2-1/2 minutes.

Dated, May 30, 1973.
CITY CIVIL SERVICE COMMISSION
Harry I. Bronstein, Chairman;
James W. Smith and
David Stadtmauer, Commissioners.
George Henry, Jr., Secretary.

2729a
Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical and Physical Standards
for
COMPUTER OPERATOR

The following shall be causes for rejection for appointment unless otherwise indicated:

MEDICAL

1. ALCOHOL--Excessive use of, rejects. History of, may reject.

2. AMBULATION--Existence of an orthopedic, neuromuscular, neurological or other impairment. History of back condition may reject.

3. BLOOD PRESSURE--Systolic higher than 160 or diastolic higher than 94. (The lowest of three successive readings will be used.) History of continued treatment for high blood pressure.

4. DRUGS--Abusive use of drugs or chemicals such as amphetamines, barbiturates, doridene, phenothiazine, quinine, morphine, LSD, heroin or codeine which interferes with sensorium or other functions, rejects. History of such use may reject.

5. HEARING--Inability to hear a conversational voice. Use of hearing aid is allowed.

6. HEART--History of heart disease may reject. Significant cardiac abnormality may reject.

7. HERNIA--Presence of. Use of truss is not allowed.

8. NEUROLOGICAL CONDITION or MUSCULAR CONDITION--Any such condition producing weakness, paralysis or incoordination if it affects ability to perform the duties of the position.

9. PSYCHIATRIC--History of a mental or nervous ailment may reject.

10. RESPIRATORY SYSTEM DISEASES, such as active tuberculosis, chronic emphysema or silicosis, pulmonary fibrosis, chronic bronchitis, asthmatic bronchitis and bronchiectasis--presence of rejects. Other lung conditions such as arrested tuberculosis--may reject.

11. VARICOSE VEINS--Presence of enlarged, until corrected.

12. VISION--Less than 20/50 both eyes together, eyeglasses allowed.

13. WEIGHT--Overweight or Underweight. (The muscular and bone structure and development will be considered.)

14. ANY DISEASE, INJURY or ABNORMALITY which, in the opinion of the Medical Examiner, would tend to impair health or prevent performance of duties.

PHYSICAL

1. STRENGTH--Inability to lift a 40 pound barbell from floor to shoulder level with both hands, carry it in that position a distance of 20 feet, returning it to the floor under control.

Dated,
CITY CIVIL SERVICE COMMISSION
Harry I. Bronstein, Chairman;
James W. Smith and
David Stadtmauer, Commissioners.
George Henry, Jr., Secretary.

Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical and Physical Standards
for
SENIOR PLUMBING INSPECTOR

---

iodic reexaminations of employees in this title will be required in accordance with cutive Order No. 31.

---

following shall be causes for rejection for appointment unless otherwise indicated:

MEDICAL

ALCOHOL--Excessive use of, rejects. History of, may reject.

ALLERGY--History of severe incapacitating allergies.

BACK INJURY--History of two or more occurrences of, in last five years, may reject.

BLOOD PRESSURE--Systolic higher than 160 or diastolic higher than 94 may reject. The lowest of three successive readings will be used. History of continued treatment for high blood pressure may reject.

CHEST--Chronic respiratory conditions which cause disability or tend to progress with time, may reject. Presence of active tuberculosis or other serious condition revealed by X-ray.

DEFORMITIES--Any deformities of hands, feet, spine or other body parts which would prevent satisfactory driving.

DIABETES MELLITUS--Presence of.

DRUGS--Abusive use of drugs or chemicals such as amphetamines, barbiturates, doriden, phenothiazine, morphine, LSD, heroin or cocaine which interferes with sensorium or other functions; rejects. History of such use may reject unless the eligible is successfully participating in a recognized chemotherapeutic program or has satisfactorily completed any other acceptable program and is drug free.

EPILEPSY, fainting spells, blackouts, convulsions, vertigo or any condition which interferes with alertness and safe driving; history of.

GENITO-URINARY--History of a chronic disabling condition.

HEARING--Loss of hearing sufficient to interfere with normal conversation. Use of hearing aid is not allowed.

HEART--History of heart disease. Significant cardiac abnormality. A one minute hop test (exercise by 30 hops on one leg) may be given in which the heart rate should return to the resting rate within 3 minutes.

BEST COPY AVAILABLE

...ence of, until corrected. Use of truss is not allowed.

...AL CONFINEMENT or PSYCHIATRIC CARE--History of, may require psychiatric ... in order to determine employability.

... CONDITION or MUSCULAR CONDITION--Any such condition producing weakness, ... incoordination.

...ory of treatment for peptic, gastric or duodenal ulcer within the past ... may reject.

... INS--Presence of enlarged, until corrected.

...ISEASE--Presence of, until adequately treated.

...lor)--Inability to distinguish red, green and amber colors.

...s than 20/40 vision, with both eyes together, eyeglasses allowed. Chronic ...ion of lids or conjunctiva or presence of any disease interfering with vision. ... visual fields should be not less than 140 degrees.

...erweight or Underweight. (The muscular and bone structure and development ... sidered.)

..., INJURY or ABNORMALITY which tends to impair health or prevent the per- ...rmance of duties or would apparently make a poor long range risk.

PHYSICAL

... Inability to scale a vault box 3 feet high, sprint 3 yards to a maze of ... and dodge through, and sprint back approximately 10 yards to the finish ... in 20 seconds.

...--Inability to lift to shoulder height a 25 pound dumbbell with one hand ... pound dumbbell with the other, one hand at a time.

... SERVICE COMMISSION
...in, Chairman;
... and
..., Commissioners.
...r., Secretary.

Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical and Physical Standards
for
PRO. TO BOILER INSPECTOR

Periodic reexaminations of employees in this title will be required in accordance with Executive Order No. 31.

The following shall be causes for rejection for appointment unless otherwise indicated:

MEDICAL

1. ALCOHOL--Excessive use of, rejects. History of, may reject.

2. ALLERGY--History of severe incapacitating allergies.

3. BACK INJURY--History of two or more occurrences of, in last five years, may reject.

4. BLOOD PRESSURE--Systolic higher than 160 or diastolic higher than 94 may reject. The lowest of three successive readings will be used. History of continued treatment for high blood pressure may reject.

5. CHEST--Chronic respiratory conditions which cause disability or tend to progress with time, may reject. Presence of active tuberculosis or other serious condition revealed by X-ray.

6. DEFORMITIES--Any deformities of hands, feet, spine or other body parts which would prevent satisfactory driving.

7. DIABETES MELLITUS--Presence of.

8. DRUGS--Abusive use of drugs or chemicals such as amphetamines, barbiturates, doriden, phenothiazine, morphine, LSD, heroin or codeine which interferes with sensorium or other functions; rejects. History of such use may reject unless the eligible is successfully participating in a recognized chemotherapeutic program or has satisfactorily completed any other acceptable program and is drug free.

9. EPILEPSY, fainting spells, blackouts, convulsions, vertigo or any condition which interferes with alertness and safe driving; history of.

10. GENITO-URINARY--History of a chronic disabling condition.

11. HEARING--Loss of hearing sufficient to interfere with normal conversation. Use of hearing aid is not allowed.

12. HEART--History of heart disease. Significant cardiac abnormality. A one minute hop test (exercise by 30 hops on one leg) may be used in which the heart rate should return to the resting rate within 3 minutes.

13. HERNIA--Presence of, until corrected. Use of truss is not allowed.

14. MENTAL HOSPITAL CONFINEMENT or PSYCHIATRIC CARE--History of, may require psychiatric examination in order to determine employability.

15. NEUROLOGICAL CONDITION or MUSCULAR CONDITION--Any such condition producing weakness paralysis or incoordination.

16. ULCER--History of treatment for peptic, gastric or duodenal ulcer within the past five years, may reject.

17. VARICOSE VEINS--Presence of enlarged, until corrected.

18. VENEREAL DISEASE--Presence of, until adequately treated.

19. VISION--Less than 20/40, with both eyes together, eyeglasses allowed. Chronic inflammation of lids or conjunctiva or presence of any [illegible] vision. Peripheral visual fields should be not less than [illegible].

20. VISION (Color)--Inability to distinguish red, green and other colors.

21. Weight--Overweight or Underweight. (The muscular and bone structure and development will be considered.)

22. ANY DISEASE, INJURY or ABNORMALITY which tends to impair health or prevent the performance of duties or would apparently make a poor long range risk.

PHYSICAL

1. AGILITY--Inability to scale a vault box 3 feet high, sprint 3 yards to a maze of obstacles and dodge through, and sprint back approximately 10 yards to the finish line within 20 seconds.

2 STRENGTH--Inability to lift to shoulder height a 25 pound dumbbell with one hand and a 20 pound dumbbell with the other, one hand at a time.

Dated,
CITY CIVIL SERVICE COMMISSION
Harry I. Bronstein, Chairman;
James W. Smith and
David Stadtmauer, Commissioners.
George Henry, Jr., Secretary.

Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical and Physical Standards
for
BOILER INSPECTOR

[illegible] examinations of employees in this title will be required in accordance with [illegible] Order No. 31.

The following shall be causes for rejection for appointment unless otherwise indicated:

MEDICAL

1. ALCOHOL--Excessive use of, rejects. History of, may reject.

2. ALLERGY--History of severe incapacitating allergies.

3. BACK INJURY--History of two or more occurrences of, in last five years, may reject.

4. BLOOD PRESSURE--Systolic higher than 160 or diastolic higher than 94 may reject. The lowest of three successive readings will be used. History of continued treatment for high blood pressure may reject.

5. CHEST--Chronic respiratory conditions which cause disability or tend to progress with time, may reject. Presence of active tuberculosis or other serious condition revealed by X-ray.

6. DEFORMITIES--Any deformities of hands, feet, spine or other body parts which would prevent satisfactory driving.

7. DIABETES MELLITUS--Presence of.

8. DRUGS--Abusive use of drugs or chemicals such as amphetamines, barbiturates, doriden, phenothiazine, morphine, LSD, heroin or codeine which interferes with sensorium or other functions; rejects. History of such use may reject unless the eligible is successfully participating in a recognized chemotherapeutic program or has satisfactorily completed any other acceptable program and is drug free.

9. EPILEPSY, fainting spells, blackouts, convulsions, vertigo or any condition which interferes with alertness and safe driving; history of.

10. GENITO-URINARY--History of a chronic disabling condition.

11. HEARING---Loss of hearing sufficient to interfere with normal conversation. Use of hearing aid is not allowed.

12. HEART--History of heart disease. Significant cardiac abnormality. A one minute hop test (exercise by 30 hops on one leg) may be used in which the heart rate should return to the resting rate within 3 minutes.

[illegible], until corrected. Use of [illegible] is not allowed.

[illegible] CONFINEMENT or PSYCHIATRIC CARE--History of, may require psychiatric evaluation in order to determine employability. Claustrophobia may reject.

[illegible] CONDITION or MUSCULAR CONDITION--Any such condition producing weakness, or incoordination.

[illegible] History of treatment for peptic, gastric or duodenal ulcer within the past [illegible] years, may reject.

[illegible] VEINS--Presence of enlarged, until corrected.

[illegible] VENEREAL DISEASE--Presence of, until adequately treated.

17. VISION (Color)--Inability to distinguish red, green and amber colors.

20. VISION--Less than 20/40 vision, with both eyes together, eyeglasses allowed. Chronic inflammation of lids or conjunctiva or presence of any disease interfering with vision. Peripheral visual fields should be not less than 140 degrees.

21. WEIGHT--Overweight or Underweight. (The muscular and bone structure and development will be considered.)

22. ANY DISEASE, INJURY or ABNORMALITY which tends to impair health or prevent the performance of duties or would apparently make a poor long range risk.

PHYSICAL

1. AGILITY--Inability to scale a vault box 3 feet high, sprint 3 yards to a maze of obstacles and dodge through, proceed through a tunnel approximately 4 yards in length, and sprint back approximately 10 yards to the finish line within 25 seconds.

2. STRENGTH--Inability to lift an 80 pound barbell ~~from floor to shoulder level~~ with both hands, carry it ~~in that position~~ for a distance of 30 feet, returning it to the floor under control.

3. PLATFORM-LADDER--Inability to climb approximately 6-1/2 feet up a ladder type trestle, mount a platform affixed thereto, walk approximately 9 feet to another ladder type trestle, turn around, and climb down, within 30 seconds.

Dated,
CITY CIVIL SERVICE COMMISSION
Harry I. Bronstein, Chairman;
James W. Smith and
David Stadtmauer, Commissioners.
George Henry, Jr., Secretary.

2737a
Exhibit 10

THE CITY OF NEW YORK
DEPARTMENT OF PERSONNEL
CITY CIVIL SERVICE COMMISSION

Medical and Physical Standards
for
PLUMBER

The following shall be causes for rejection for appointment unless otherwise indicated:

MEDICAL

. ALCOHOL—Excessive use of, rejects. History of, may reject.

. AMBULATION—Existence of an orthopedic, neuromuscular, neurological or other impairment. History of back condition may reject.

. AMPUTATIONS—An amputation of any of the fingers on either hand or of the toes on either foot or of a hand or foot itself will reject if, in the opinion of the Medical Examiner, it will impair function or usefulness or may constitute a hazard.

BLOOD PRESSURE—Systolic higher than 160 or diastolic higher than 94. (The lowest of three successive readings will be used.) History of continued treatment for high blood pressure.

. DIABETES MELLITUS—Presence of.

. DRUGS—Abusiv[illegible]e of drugs or chemicals such as amphetamines, barbiturates, doridant, phenothiazine, [illegible]mine, morphine, LSD, heroin or codeine which interferes with sensorium or other functions, rejects. History of such use may reject.

. EPILEPSY, fainting spells, blackouts, convulsions, vertigo or any condition which interieres with alertness, history of.

. HEARING—Inability to hear a conversational voice. Use of hearing aid is allowed.

. HEART—History of heart disease. Significant cardiac abnormality. Failure of heart rate to return to the resting rate within 3 minutes after a 1 minute hop test. (Exercise by 30 hops on one leg.) Significant abnormal electrocardiogram.

0. HERNIA—Presence of. Use of truss is not allowed.

NEUROLOGICAL CONDITION or MUSCULAR CONDITION—Any such condition producing weakness, paralysis, or incoordination if it affects ability to perform the duties of the position.

2. PSYCHIATRIC—Presence of claustrophobia. History of a mental or nervous ailment may reject.

3. RESPIRATORY SYSTEM DISEASES, such as active tuberculosis, chronic emphysema or silicosis, pulmonary fibrosis, chronic bronchitis, asthmatic bronchitis and bronchiectasis—presence of rejects. Other lung conditions such as arrested tuberculosis—may reject.

VARICOSE VEINS—Presence of enlarged, until corrected.

15. VISION--Less than 20/50 both eyes together, eyeglasses allowed.

16. WEIGHT--Overweight or Underweight. (The muscular and bone structure and development will be considered.)

17. ANY DISEASE, INJURY or ABNORMALITY which, in the opinion of the Medical Examiner, would tend to impair health or prevent performance of duties.

PHYSICAL

1. ACROPHOBIA--Inability to climb 6 feet up a ladder, mount a platform affixed thereon, walk approximately 10 feet to another ladder and climb down within 30 seconds.

2. STRENGTH--Inability to lift from a stop position at the shoulder to full arm vertical extension a 25 pound dumbbell with one hand and a 20 pound dumbbell with the other, one hand at a time.

3. STRENGTH--Inability to lift a 100 pound barbell from floor with both hands, carry it a distance of 10 feet, returning it to the floor under control.

Dated,
CITY CIVIL SERVICE COMMISSION
Harry I. Bronstein, Chairman;
James W. Smith and
David Stadtmauer, Commissioners.
George Henry, Jr., Secretary.

Exhibit 11—Operating Principles of the New York State Civil Service Department and New York State Drug Abuse Control Commission on Employment of Treated Drug Abuses and Related Services

OPERATING PRINCIPLES

of the

New York State

CIVIL SERVICE DEPARTMENT

and

DRUG ABUSE CONTROL COMMISSION

on

Employment of Treated Drug Abusers* and Related Services

New York State is deeply concerned about the drug abuse problem, which represents one of its major social issues, adversely affecting many segments of our society -- rich and poor; youth, returning veterans, the executives, the housewives, and workers - from varied ethnic, religious, and cultural backgrounds.

Since 1966, the State Drug Abuse Control Commission (DACC) and its predecessor, has been conducting a massive program, involving a variety of treatment modalities, whose ultimate objective it is to reintegrate treated drug abusers into society as productive and contributing members.

To realize this goal we need to make a range of employment opportunities available. It has become clear that both the public and private employment sectors must provide these opportunities. In this endeavor the State must assume a leadership role. Accordingly, DACC and the State Civil Service Department have developed the following operating

principles relating to the employment of treated drug abusers and potential supportive services for the employee and other state agencies:

1. Candidates for employment in positions in State government shall not be denied employment solely because of a history of drug abuse.

   If an applicant for state employment has a history of drug abuse, his application should be considered on its own merits. However, a history of drug abuse may be considered the basis for denial of appointment in certain sensitive positions identified by the New York State Department of Civil Service.

2. The Drug Abuse Control Commission (DACC) and the Department of Civil Service shall provide the following services to other State Departments and agencies:

   (a) Professional medical consultation with respect to incipient or existing drug problems affecting personnel;

   (b) rapid referral of State employees with drug problems to accredited agencies or to DACC treatment facilities;

(c) training of administrative, supervisory, and medical staff in all relevant aspects of drug abuse;

(d) ongoing supportive and emergency intervention services to former clients of DACC to help them remain in State employment.

3. The department of Civil Service shall provide to public and private drug treatment programs, at their request, examination announcements and schedules and such other materials as may be helpful to treated drug abusers seeking public employment.

4. Comprehensive guidelines shall be developed by the Department of Civil Service and the Drug Abuse Control Commission for the processing of drug-related personnel problems, including the screening of drug abusers, referrals for treatment, determination of suitability for employment and related matters.

*For the purposes of these principles, the term "treated drug abusers" includes persons who are free of drugs as well as those in recognized chemotherapeutic treatment programs such as methadone maintenance.

Exhibit 12—List of Job Titles in the New York City Transit Authority

	Actual	Quota
ACCOUNT CLERK	35	32
ACCOUNTANT	31	29
ACTUARY	4	4
ADMINISTRATIVE ACCOUNTANT (M)		3
ADMINISTRATIVE ASSISTANT	97	108
ADMINISTRATIVE ASSISTANT (EXECUTIVE)	2	2
ADMINISTRATIVE ASSISTANT (SECRET)	3	5
ADMINISTRATIVE ASSISTANT (EOP)	8	9
ADMINISTRATIVE ASSOCIATE	34	27
ADMINISTRATIVE ATTORNEY (M)	2	3
ADMINISTRATIVE CLAIMS EXAMINER (M)	1	1
ADMINISTRATIVE ENGINEER (M)	6	8
ADMINISTRATIVE PROJECT (COORDINATOR) (M)	2	2

ADMINISTRATIVE MANAGER (MINING) (M)	7		7
ADMINISTRATIVE PERSONNEL EXAMINER (M)	1		1
ADMINISTRATIVE SAFETY OFFICER (T.A) (M)	4		
AIRBRAKE MAINTAINER	489	4 5	4
ALPHABETIC KEY PUNCH OPERATOR	0		3
ARCHITECT	5		7
ASSISTANT ACCOUNTANT	29	3	4
ASSISTANT ACTUARY	3		3
ASSISTANT ARCHITECT	33	3	8
ASSISTANT ATTORNEY	4		6
ASSISTANT BUDGET EXAMINER	6		6
ASSISTANT BUYER	6		6
ASSISTANT CHEMIST	6		6
ASSISTANT CIVIL ENGINEER	207	3	6
ASSISTANT CIVIL ENGINEER (X)	1		1
ASSISTANT COUNSEL (T.A)	4		5
ASSISTANT COUNSEL (TORTS) (GR.4) (X)	7		10
ASSISTANT COUNSEL GR.4 (X)	1		1
ASSISTANT COUNSEL (TORTS) GR.4 (X)	3		
ASST. DIRECTOR OF LABOR RELATIONS	2		2

ASST. DIR. OF PUBL. INFO. + COM. REL.	1		1
ASSISTANT ELECTRICAL ENGINEER	199	35	
ASSISTANT ENGINEER (ACCOUNTING)	1		
ASSISTANT ENGINEERING TECHNICIAN	54	25	
ASST. FOREMAN (CAR CLEANING)	3		
ASST. GENERAL SUPT. (B+S)	2		2
ASST. GENERAL SUPT. (C+S)	1		1
ASST. GENERAL SUPT. (RAT of WAY)	1		1
ASST. GENERAL SUPT (POWER)	1		1
ASST. GENERAL SUPT. (R.T. OPER.)	1		1
ASST. GENERAL SUPT. (STATIONS)	1		1
ASST. GENERAL SUPT. (SURF. TRANS)	1		2
ASST. MANAGEMENT ANALYST	0		
ASSISTANT MECHANICAL ENGINEER	51	15	
ASSISTANT METHODS ANALYST	0		
ASSISTANT PERSONNEL EXAMINER	9		6
ASSISTANT PROJECT COORDINATOR	4		4
ASSISTANT SAFETY COORDINATOR	5		
ASST. SIGNAL CIRCUIT ENGINEER	24		3
ASST. STATION SUPERVISOR	99	24	
ASST. SUPERINTENDENT (BUSES + SHOPS)	5		10
ASST. SUPERINTENDENT (CARS + SHOPS)	6		7

2745a
Exhibit 12

ASST. SUPERINTENDENT (POWER)	1		1
ASST. SUPERINTENDENT (SIGNALS)	1		1
ASST. SUPERINTENDENT (STRUCTURES)	1		2
ASST. SUPT. (SURFACE TRANS)	6		6
ASST. SUPERINTENDENT (TRACK)	1		1
ASST. SUPV. REAL ESTATE MANAGER	0		1
ASST. SUPV. (AIR COND. ROLL STOCK)	1		2
ASST. SUPERVISOR (BUSES + SHOPS)	53	25	
ASST. SUPERVISOR (CARS + SHOPS)	55	55	
ASST. SUPERVISOR (ELECTRICAL POWER)	45	45	
ASST. SUPERVISOR (ELEC. EQUIPMENT)	3		3
ASST. SUPERVISOR (ELEVATORS + ESCAL.)	3		3
ASST. SUPERVISOR (LIGHTING)	8		8
ASST. SUPERVISOR (POWER DISTRIBUTION)	11		11
ASST. SUPERVISOR (SIGNALS)	35	34	
ASST. SUPERVISOR (STORES, MAT. + SUPPLIES)	5		7
ASST. SUPERVISOR (STRUCTURES)	15	15	
ASST. SUPERVISOR (STRUCTURES - GROUP C)	4		4

TRANSIT AUTHORITY TITLES	UC	TD
ASST. SUPERVISOR (TELEPHONES)	14	3
ASST. SUPERVISOR (TRACK)	27	28
ASST. SUPERVISOR (TURNSTILES)	4	4
ASST. SUPERVISOR (VENTILATION + DRAINAGE)	5	5
ASST. TO CHAIRMAN + CHIEF EXECUTIVE OFFICER	0	
ASST. TO CHIEF ENGR (COOR. ENGR. EMPL.)	1	1
ASST. TO EXEC. OFF. (OPS + MTCE)	1	1
ASST. TO EXEC. OFF. (CONSTR. ADMIN)	1	1
ASST. TO EXEC. OFF. LAB. REL + PERS.	1	1
ASST. TO EXEC. OFFICER - CONTROLLER	1	1
ASSISTANT TRAIN DISPATCHER	447	460
ASST. TRANSIT MGT. ANALYST (OPER)	1	
ASST. TRANSIT MGT. ANALYST	13	30
ASSOCIATE BUDGET EXAMINER	0	

2747a
Exhibit 12

[illegible] TRANSIT AUTHORITY TITLES	[illegible]	[illegible]
ASSOCIATE METHODS ANALYST	2	6
ASSOCIATE PERSONNEL EXAMINER	3	5
ATTORNEY	22	23
ATTORNEY (TRAINEE)	0	7
BLUEPRINTER	3	3
BOOKKEEPING MACHINE OPERATOR	9	12
BUDGET EXAMINER	5	4
BUS MAINTAINER - GROUP (A)	243	234
BUS MAINTAINER - GROUP (B)	786	823
BUS OPERATOR	5,259	5,286
BUYER	6	10
CAR CLEANER	955	992
CAR INSPECTOR	1,258	1245
CAR MAINTAINER - GROUP A	451	343
CAR MAINTAINER - GROUP B	208	214
CAR MAINTAINER - GROUP (C)	158	87
CAR MAINTAINER - GROUP D	9	

#2 TRANSIT AUTHORITY TITLES	#2C	#2D
CAR MAINTAINER - GROUP (E)	833	718
CAR MAINTAINER - GROUP (F)	347	353
CAR MAINTAINER - GROUP (G)	8	
CAR MAINTAINER TRAINEE	35	35
CASHIER (TRANSIT AUTHORITY)	32	33
CHEMIST	12	12
CHIEF ARCHITECT	1	1
CHIEF ENGINEER	0	1
CHIEF LABOR RELATIONS ASSISTANT	0	
CHIEF SCHEDULE MAKER	1	1
CHIEF SURFACE LINE DISPATCHER	21	19
CIVIL ENGINEER	79	89
CIVIL ENGINEER (RULE X)	2	
CIVIL ENGINEERING DRAFTSMAN	27	29
CLAIM EXAMINER	33	35
CLAIM EXAMINER TRAINEE (T.A.)	0	
CLAIM EXAMINER (TORTS) GR. 4 (X) (MANAGERIAL)	1	
CLAIM EXAMINER (TORTS) GR. 4 (X)	26	29
CLERK	346	245
CLERK - GR. 5 (RULE X)	32	36
COLLECTING AGENT	145	149
COLLEGE AIDE	21	

COMPUTER OPERATOR	7			6		
COMPUTER PROGRAMMER	1			7		
COMPUTER PROG. TRAINEE	2					
COMPUTER SYSTEMS ANALYST	2			2		
CONDUCTOR	3	22	1	32	38	
CONFIDENTIAL SECRETARY	6			1		
CONSTRUCTION INSPECTOR	7			7		
CONTRACTS COMPLIANCE OFFICER	1			1		
COORDINATOR OF TRAINING (TA)	1			1		
DEPUTY ASST. CORP. COUNS (X) MANAG.	1					
DEPUTY CHIEF ENGINEER (T.A.)	3			3		
DIRECTOR OF CONCESSIONS	0			1		
DIRECTOR OF EMPL. COUNSELING (TA)	1			1		
DIRECTOR OF LABOR RELATIONS	1			1		
DIRECTOR OF PUBLIC RELATIONS	1					
DIRECTOR OF MATERIALS	1			1		
DIRECTOR OF SAFETY	1			1		
DIRECTOR OF SPECIAL INSPECTIONS	1			1		
DIVISION ENGINEER	1					
DIVISION ENGINEER (T.A.)	6			6		
ELECTRICAL ENGINEER	24		35			
ELECTRICAL ENGINEER (R.R.S)	1			2		
ELECTRICAL ENGINEERING DRAFTSMAN	47			47		

ELECTRICAL ENGINEERING TRAINEE	0		
ELECTRONIC EQUIPMENT MAINTAINER	30	34	
ELECTRONIC EQUIPMENT MTR'S HELPER	0		

ELEVATOR OPERATOR	2		2
ENGINEERING AIDE	2		2
ENGINEERING TECHNICIAN	1		2
ENGR. TECHNICIAN TRAINEE	25		28
EXECUTIVE OFFICER, CONSTRUCTION	1		1
EXECUTIVE OFFICER CONTROLLER	1		1
EXEC. OFF. LAB. REL. + PERSONNEL	1		1
EXEC. OFF., OPER. + MTCE.	1		1
FOREMAN (BUSES + SHOPS)	125	128	
FOREMAN (CARS + SHOPS)	492	498	
FOREMAN (ELECTRICAL POWER)	84	86	
FOREMAN (ELETRONIC EQUIPMENT)	9	10	
FOREMAN (ELEVATORS + ESCALATORS)	12	13	
FOREMAN (LIGHTING)	25	28	
FOREMAN (POWER CABLES)	17	17	
FOREMAN (POWER DISTRIBUTION)	64	66	
FOREMAN (RAILROAD WATCHMAN)	13	14	
FOREMAN (SIGNALS)	104	104	
FOREMAN (STORES, MATERIALS + SUPPLIES)	10	11	
FOREMAN (STRUCTURES - GROUP A)	23	23	

2 TRANSIT AUTHORITY TITLES	3C	3D
FOREMAN (STRUCTURES-GROUP B)	34	34
FOREMAN (STRUCTURES-GROUP C)	54	55
FOREMAN (STRUCTURES-GROUP D)	17	17
FOREMAN (STRUCTURES-GROUP E)	44	45
FOREMAN (STRUCTURES-GROUP F)	19	20
FOREMAN (TELEPHONES)	10	11
FOREMAN (TRACK)	221	232
FOREMAN (TURNSTILES)	16	16
FOREMAN (VENTILATION + DRAINAGE)	20	20
FREIGHT TRAFFIC MANAGER	1	1
GENERAL COUNSEL	1	1
GENERAL SUPERINTENDENT (SURFAC)	1	1
HEAD NURSE	0	1
HEARING REFEREE	1	1
INSPECTOR OF CEMENT TESTS	1	1
INSPECTOR OF LUMBER, GRADE 4 (X)	1	1
INSPECTOR OF STEEL (MILL) GRADE 4 (X)	1	1
INSPECTOR OF STEEL (SHOPS) GRADE 4 (X)	1	1
JUNIOR ARCHITECT	5	5
JUNIOR BACTERIOLOGIST	2	
JUNIOR CHEMIST	4	5
JUNIOR CIVIL ENGINEER	58	2
JUNIOR DRAFTSMAN	1	1
JUNIOR ELECTRICAL ENGINEER	41	2
JUNIOR MECH. ENGINEER (STR. + TRACK)	1	1

2 TRANSIT AUTHORIT	2C	2D
KEYPUNCH OPERATOR	57	55
LABOR RELATIONS ASSISTANT	6	8
LABOR RELATIONS COUNSELOR (TE)	1	1
LAW CLERK*	1	
LABORATORY TECHNICIAN	0	
LETTERER	0	
LIGHT MAINTAINER	180	197
LIGHT MAINTAINER'S HELPER	123	121
MAINTAINER'S HELPER GROUP B	237	214
MAINTAINER'S HELPER GROUP C	393	390
MAINTAINER'S HELPER GROUP D	261	102
MAINTENANCE MAN	2	2
MANAGEMENT INTERN	22	
MECHANICAL ENGINEER	11	16
MECHANICAL ENGINEERING DRAFTSMAN	8	8
MECHANICAL MAINTAINER-GROUP B	79	82
MECHANICAL MAINTAINER-GROUP C	136	141
MECHANICAL MAINTAINER-GROUP D	1	1
MECHANICAL MAINTAINER HELPER-GROUP B	35	36
MEDICAL DIRECTOR (TE)	1	1
MEDICAL SPECIALIST	2	2
MESSENGER	12	11
METHODS ANALYST	2	4

[illegible] OPERATOR	19	20
[illegible]	3-71	3308
[illegible] INSTRUCTOR	106	109
OFFICE APPLIANCE OPERATOR	14	13
PRINTING INSPECTOR	1	1
PERSONNEL EXAMINER	1	3
PHOTOGRAPHER	7	7
PHYSICAL THERAPIST	1	2
PHYSICIAN	12	13
PHYSICIAN - SURGEON (TA) (X)	1	1
PHYSICIAN - SURGEON (TA) (X) (IRANG.)	1	
POLICE: CAPTAIN, NYC TPD	55	55
LIEUTENANT NYC T.P.D.	114	112
PATROLMAN NYC T.P.D.	2803	2883
POLICEWOMAN NYC T.P.D.	11	17
SERGEANT NYC T.P.D.	235	234
TRAINEE NYC T.P.D.	24	0
POLICE ADMINISTRATIVE AIDE	30	75
POWER CABLE MAINTAINER	45	43
POWER DISTRIBUTION MAINTAINER	325	305
POWER DISTRIBUTION MAINT. HELPER	47	55
[illegible] MAINTAINER GROUP B	354	358
PRINCIPAL CASHIER (TA)	24	24
PRINCIPAL COMPUTER OPERATOR	3	0
PRINCIPAL COMPUTER PROGRAMMER	2	2

Position Authority Title	42C	42D
Principal Methods Analyst	1	1
Principal Time & Methods Analyst	1	8
Principal Mechanical Engineer	1	1
Principal Telephone Operator	2	1
Principal Research Analyst	1	1
Project Coordinator	13	13
Public Relations Assistant	3	3
Purchase Inspector (Mill Steel)	3	4
Purchase Inspector (Shop Steel)	9	11

2756a
Exhibit 12

2 Transit Authority Titles	2C	2D
Purchase Inspector (Lumber)	4	4
Purchase Inspector (Textiles)	2	2
Quantitative Analyst	1	1
Railroad Caretaker	229	257
Railroad Clerk	4,145	4,187
Railroad Porter	1,162	1,198
Railroad Signal Inspector	—	
Railroad Signal Specialist	32	34
Railroad Stock Assistant	103	116
Railroad Stockman	72	95
Railroad Watchman	162	171
Real Estate Manager	2	3
Road Car Inspector	323	332
Safety Coordinator (TA)	16	51
Schedule Maker	10	14
Schedule Maker (Surface)		
Senior Accountant	4	10
Sr. Accountant (Car Insp.)	2	3
Sr. Accountant Gr. 3 (X)	14	17

2757a
Exhibit 12

Sr. Administrative Asst	3	8
Sr. Architect	4	4
Sr. Attorney	4	7
Sr. Buyer	3	5
Sr Chemist	8	8
Sr. chemist (X)	4	4
Sr Civil Engineer	45	49
Sr. Claim Examiner	14	18
Sr. Clerk	286	325
Sr. Computer Operator	5	7
Sr Computer Programmer	6	6
Sr Construction Inspector	6	6
Sr. Electrical Engineer	11	15
Sr Electrical Engineer (RRS)	8	10
Sr. Engineer (Acty)		
Sr. Engineering Technician	5	6
Sr. Engineering Technician (Drafting)	4	6

#2 TRANSIT AUTHORITY TITLES	42C	42D
TRAIN DISPATCHER	360	367
TRAINMASTER	96	95
TRANSCRIBING TYPIST	17	20
TRANSIT MANAGEMENT ANALYST	8	26
TRANSIT MANAGEMENT ANALYST (OPERATIONS)	1	
TRANSIT MANAGEMENT ANALYST TRAINEE	NONE	0
TURNSTILE MAINTAINER	141	148
TYPIST	190	205
VENTILATION & DRAINAGE MAINTAINER	142	146
X-RAY TECHNICIAN	3	3
YARDMASTER	96	99

TRANSIT AUTHORITY TITLES	EXC		TAU	
SUPERVISOR (CARS & STORES)	37		35	
SUPERVISOR (DIESEL EQUIPMENT)	1		1	
SUPERVISOR (ELECTRICAL POWER)	7		12	
SUPERVISOR (ELECTRONIC EQUIPMENT)	0		1	
SUPERVISOR (ELEV. & ESCAL.)	1		1	
SUPERVISOR (LIGHTING)	2		2	
SUPERVISOR (POWER DISTRIBUTION)	3		3	
SUPERVISOR (SIGNALS)	7		7	
SUPERVISOR (STORES, MATERIALS & SUPPLIES)	5		5	
SUPERVISOR (STRUCTURES)	9		10	
SUPERVISOR (STRUCTURES - GROUP C)	2		1	
SUPERVISOR (TELEPHONES)	2		2	
SUPERVISOR (TRACK)	9		9	
SUPERVISOR, TRAFFIC ED. (SAFETY)	1		1	
SUPERVISOR (TRAVEL INFORMATION)	1		1	
SUPERVISOR (TURNSTILES)	1		1	
SUPERVISOR (VENTILATION & DRAINAGE)	2		2	
SURFACE LINE DISPATCHER	611		605	
TABULATOR OPERATOR	9		13	
TELEPHONE CABLE MAINTAINER	8		8	
TELEPHONE MAINTAINER	77		78	
TELEPHONE MAINTAINER'S HELPER	12		13	
TELEPHONE OPERATOR	32		34	
TOWERMAN	600		605	
TRACKMAN	1636		1710	

Sr. Executive Officer	11		11
Sr. Key Punch Operator	11		12
Sr. Mechanical Engineer	5		7
Sr. Office Appliance Operator	1		1
Sr. Painting Inspector	1		1
Sr. Principal Cashier (T.A)	7		7
Sr. Principal Computer Programmer			1
Sr. Project Coordinator	1		1
Sr. Purchase Inspector (M.ll Steel)	—		—
Sr. Purchase Inspector (Shop Steel)	4		4
Sr. Real Estate Manager			1
Sr. Shorthand Reporter	4		4
Sr. Stationary Engineer	6		6
Sr. Steel Construction Inspector	2		2
Sr. Stenographer	48		61
Sr. Surface Line Dispatcher	62		61
Sr. Tabulator Operator	4		6
Sr. Telephone Operator	7		7
Sr. Third Rail Inspector	1		1
Sr. Transit Management Analyst	15	1	7
Sr. Typist	33	3	8
Stock Clerk	30. 95	11	2
Stock and Cash Service Man	118	17	5
Shorthand Reporter	7		9
Signal Maintainer	639	69	2
Signal Maintainer's Helper	481	53	0

SPECIAL INVESTIGATOR (T.A.)	1			1
STAFF NURSE	5			4
STATION SUPERVISOR	33		33	
STATIONARY ENGINEER	29		29	
STATIONARY FIREMAN	22		21	
STENOGRAPHER	41		40	
STENOGRAPHER (LAW)	3			6
STENOGRAPHER GR. 5 (X) (MANAG)	1			1
STRUCTURE MAINTAINER GROUP A	167		199	
STRUCTURE MAINTAINER GROUP B	198		283	
STRUCTURE MAINTAINER GROUP C	266		321	
STRUCTURE MAINTAINER GROUP D	104		126	
STRUCTURE MAINTAINER GROUP E	207		239	
STRUCTURE MAINTAINER GROUP F	1			2
STRUCTURE MAINTAINER GROUP G	131		119	
SPECIAL COUNSEL (CONSTR. CONTR.)	1			1
SUPERINTENDENT (BUSES + SHOPS)	5			5
SUPERINTENDENT (CARS + SHOPS)	11		11	
SUPERINTENDENT (MTCE. OF WAY)	6			9
SUPERINTENDENT (NEW CAR ENGR)	1			
SUPERINTENDENT (OPERATIONS)	2			2
SUPERINTENDENT (POWER)	3			5
SUPERINTENDENT (SIGNALS)	1			1
SUPERINTENDENT (STATIONS)	6			6
SUPERINTENDENT (STORES, MATERIALS + SUPPLIES)	1			3
SUPERINTENDENT (SURFACE TRANSPORTATION)	5			6

SUPERINTENDENT (TRANSPORTATION)		1	3		1	4	
SUPERVISING ACCOUNTANT		1					
SUPERVISING ATTORNEY		3			6		
SUPERVISING CASHIER (T.A.)		7	4		7	6	
SUPERVISING CLAIM EXAMINER			2			4	
SUPERVISING CLERK		2	1	7	23	6	
SUPERVISING COMPUTER OPERATOR		7			6		
SUPERVISING PHYSICIAN-SURGEON (T.A.)	X	1			2		
SUPERVISING REAL ESTATE MANAGER		1					
SUPERVISING STENOGRAPHER		1	8		23		
SUPERVISING TABULATOR OPERATOR		4			4		
SUPERVISING TELEPHONE OPERATOR		3			3		
SUPERVISING TYPIST		1			1		
SUPERVISOR (BUSES & SHOPS)		20			20		

#2 TRANSIT METTLOUSY TITLES	42C	42D
TRANSIT DISPATCHER	360	367
TRAINMASTER	96	95
TRANSCRIBING TYPIST	17	20
TRANSIT MANAGEMENT ANALYST	8	26
TRANSIT MANAGEMENT ANALYST (OPERATIONS)	1	
TRANSIT MANAGEMENT ANALYST TRAINEE	NONE	0
TURNSTILE MAINTAINER	141	148
TYPIST	190	205
VENTILATION & DRAINAGE MAINTAINER	142	146
X-RAY TECHNICIAN	3	3
YARDMASTER	96	99

Exhibit 21—Letter from Rockefeller University Dated August 27, 1974 to Eric Balber

THE ROCKEFELLER UNIVERSITY

New York, N.Y. 10021

METHADONE INFORMATION CENTER

August 27, 1974

Mr. Eric Balber
Legal Action Center
271 Madison Avenue
New York, New York 10016

Dear Mr. Balber:

In answer to your questions regarding the parameters of methadone maintenance treatment in New York City, I hope the following is helpful to you.

1) Total census for Metropolitan New York (inlcudes the five boroughs: Nassau, Suffolk, Rockland and Westchester Counties) - 36,920 as of 8/16/74

2) Census for New York City proper - 33,347 as of 8/11/74

3) The summary of the "Report of Individual's Progress" for Metropolitan New York is enclosed. You will note figures for such things as employment, incidence of drug abuse, etc.

4) Re racial/ethnic breakdown of the patient population

a.	Black	38.5
b.	White	33.14
c.	Puerto Rican	22.5
d.	Undefined	5.85

These figures are based on a 1,400 patient sample. The sample was drawn on a random basis and very accurately reflects the total population for Metropolitan New York City.

Very truly yours,

Peter L. Vogelson
Coordinator of Field Service

Enclosure

Exhibit 23—Letter to New York City Department of Personnel from Harold Trigg, M.D. dated June 5, 1970

BETH ISRAEL MEDICAL CENTER
BETH ISRAEL HOSPITAL • MORRIS J. BERNSTEIN INSTITUTE
• GOVERNEUR HEALTH SERVICES PROGRAM

MORRIS J. BERNSTEIN INSTITUTE
307 SECOND AVENUE
NEW YORK, N.Y. 10003
(212) 677-2309
formerly Manhattan General Hospital

June 5, 1970

Mr. George Hendry - Secretary
City of New York
Department of Personnel
220 Church Street
New York, N.Y.

Re: Francisco Diaz
List # 531
Position - Maintainer's Helper
Group D

Dear Mr. Hendry:

Mr. Diaz has been a patient on the Methadone Maintenance Treatment Program since November 1969. Throughout this time he has been an excellent patient and has been totally free of illicit drug use. He has been employed on his present job since March 1962.

Francisco's stability is impressive and he is extremely motivated toward helping himself. It is because of these factors that I would not hesitate to recommend him for the position of maintainer's helper.

Sincerely,

Harold Trigg

Harold Trigg, M.D.
Unit Director
MMTP

HT:bh

COPY

BEST COPY AVAILABLE

Exhibit 25—Manhattan and Bronx Surface Transit Operating Authority Record of Plaintiff Malcolm Frasier (excerpt)

STATUS REPORT

BUS OPER. APPLICANT

NAME Malcolm K. Frasier APPL.# ELIG. LIST# 138 DATE NOTIFIED 2/20/73

1830 Lexington Avenue - Apt. #6A
New York, New York 10029

DATE RETURNED

1. Appointment Declined

☐ Insufficient Compensation ☐ Unable to accept ☐ No response after 30 days.

Notified of removal from list
DATE

2. Rejected (Explain Fully) DATE 3-14-73 Rejected by Authority

based on Medical findings Applicant is presently engaged in Methadone Program. Company Policy not to hire applicants engaged in Methadone Program.

APPROVED Thomas L. Stanger
DATE NOTIFIED 3-14-73

3. Passed Over (Explain Fully) DATE
First Time

APPROVED
DATE NOTIFIED
DATE

Second Time

Third Time DATE

APPROVED
TO BE NOTIFIED 30 DAYS
DATE NOTIFIED

4. HIRED ☐ DATE BADGE NUMBER

SIGNED

Exhibit 26—Letter of G. Salazar, M.D., to Manhattan and Bronx Surface Transit Operating Authority, dated March 29, 1973

a

Methadone Maintenance Treatment Center
2 WEST 116TH STREET
NEW YORK, NEW YORK 10026

212 - 860-3423
212 - 860-3430

WILLIAM A. TRIEBEL, M. D.
MEDICAL DIRECTOR
G. SALAZAR, M. D.
CLINICAL DIRECTOR

Manhattan and Bronx
Surface Transit
Operating Aythority
Medical Department
605 West 132nd Street
New York, New York 10027

March 29,1973

Dear Sirs:

Mr. Malcolm Frasier has been our patient since October 16,1972. He received a regular dosage of Methadone until January 15,1973, at which time he voluntarily requested detoxification. The detoxification process lasted until March 17,1973 at which time he became drug free. His weekly urine analysis during this entire period has shown only Methadone.

During this period he was seen regularly by his counsellor, William Shuler, who has informed me that Mr. Frasier has made a successful adjustment and will not have difficulties being fully employed. The counselor has full confidence that he will remain drug free and no longer needs Methadone maintenance.

If there are any further questions please feel free to contact me.

Sincerely yours,

G. Salazar, M.D.

Thomas J. Doyle, M. D.
Assistant Vice President

Exhibit 39—Statement of Witness Thomas J. Doyle

Consolidated Edison Company of New York, Inc.
4 Irving Place, New York, N Y 10003
Telephone (212) 460-6068

STATEMENT OF THOMAS J. DOYLE, M.D.

Assistant Vice President and Chief Medical Director of Consolidated Edison Company

I have been Assistant Vice President and Chief Medical Director of the Consolidated Edison Company for 1-½ years and was Executive Medical Director five years prior to this. At the current time, I also serve as President of the New York State Society of Industrial Medicine. I have been responsible in large measure for the formulation of Medical Standards for employment with Con Edison, and I am thoroughly familiar with the present policy of the Company with respect to the hiring of persons with a history of drug addiction, including persons who are maintained on methadone.

Briefly stated, the policy is that Con Edison will provide employment consideration only for those ex-addicts who have been proven clean and stable in treatment for a minimum period of one year of active participation in a recognized comprehensive treatment program and have achieved medical, psychological and sociological stability, to a degree acceptable to our own standards, provided that the person also meets all other requirements for the job.

In implementing that policy, I have worked with Ms. Eileen Wolkstein, Director of Vocational Rehabilitation of the Beth Israel Methadone Maintenance Treatment Program, and Dr. Vincent Dole of the Rockefeller University. Ms. Wolkstein has provided applicants to me with written background information designed to assist me to assess the stability and employability of Beth Israel Methadone Program participants who apply for jobs with Con Edison. Thus, she has provided me with information as to an individual's job readiness.

I require the program to provide evidence of medical, psychological and sociological stability, I require evidence of good general physical and mental health without significant sequella from previous drug abuse.

This includes written documentation, confirmed by urine examination, that the applicant remained drug free for a minimum of one year. If a MMTP, only methadone is permitted.

Active participation in a competent counselling program and a written report of a comprehensive psychiatric evaluation is also required. Any history of significant behavioral or characterlogical disorder or history of psychosis is disqualifying.

Written report of the observations of a competent and trained counselor must document sociological stability. This may be evidenced by attitudinal and behavioral changes seen in relation to employment, community, family, religion, associates, etc., that demonstrate evidence to suggest the applicant would become a satisfactory employment risk.

Decision on acceptability is my responsibility - not relegated to MMTP. They provide me with candidates for employment and all the information on them necessary to make my decisions. The records and recommendations are reviewed and candidates are examined in my Medical Department; if satisfactory are referred for consideration of the Personnel Department and are required to meet all other requirements of the job for which they are applying.

Former addicts are initially placed in trainee or non-sensitive entry level jobs, i.e. clerical and general utility man positions. Their continued stability is insured by follow-up in the medical department by administrative physicians. Periodic unannounced observed urine checks are required on demand. Other than being followed by the medical department, these employees are not singled out for special supervision by the operating department in which they work once they pass the on-trial period. I require periodic reports from their treatment program, informal and/or formal as needed to insure continued participation as individually required.

Employees hired pursuant to this policy remain within the normal promotional lines and are advanced solely on the basis of their individually demonstrated job performance and skills. The sole exception to the general policy of individual consideration is that former addicts hired pursuant to this policy are forever absolutely excluded from work in Con Edison's nuclear facility in accordance with our understanding of A.E.C. requirements. These former addicts are eligible for promotion, and have in fact advanced to a variety of operating positions outside of the entry level general utility man position. Con Edison

job positions for which former addicts may qualify in the course of working their way through the normal promotional lines on the basis of individually demonstrated job performance may be complex.

Approximately (100) former drug abusers have been hired by Con Edison pursuant to the policy described above. Of those, few from MMTP's have dropped out or been terminated from the program. No accidents traceable to current drug abuse or past history of addiction have resulted from the actions of any of the study group employees who met the current criteria. A number of these employees have successfully advanced beyond the entry level positions and are satisfactorily performing in a variety of jobs.

In contrast to this experience we have firmly established to our satisfaction that approximately (100) other employees who did not meet current employment criteria had to be released because of drug related problems. Problems with lateness, absence, abnormal mood and behavior at work, poor work performance, accidents, theft, pushing drugs, using drugs at work, hospitalization for hepatitis and other drug related illness, mental breakdown, suicide and death by overdose proved this group to be a terrible employment risk. Our experience has firmly convinced us that rehabilitation of the addict requires a comprehensive and competent treatment program. Basically we do not believe that active drug abusers can or should be rehabilitated in our sensitive work environment. The responsibility, we feel, is with outside agencies.

When he has the best of both worlds the stimulus to modify behavior appears inadequate in most cases. When life style adjustments are made with 100% committment of the individual through the guidance of good programs, our experience has been excellent.

In our original study when applicants met our standards of proven stable rehabilitation, our success rate exceeded 65% over a two year period. It should be noted however that less than 5% of those who were terminated were released because of recurrent drug abuse. While our standards for employment apply equally to drug free and methadone maintenance programs. Our experience with the latter has been superior.

Beyond this generalized experience, specific data exists with respect to 13 former addicts in treatment at the Beth Israel Methadone Maintenance Program who were hired by Con Ed.

As part of my duties as Chairman of the Drug Abuse Committee of the New York State Society of Industrial Medicine, I cooperated with Dr. Vincent Dole of the Rockefeller University and Ms. Eileen Wolkstein of the Beth Israel Methadone Maintenance Treatment Program in an evaluation of the job performance of these 13 individuals who have worked for Con Edison for periods ranging from 6 months to 3 years. Briefly the results of this evaluation were that in every case the employee"s supervisor reported that the employee was performing as well as or better than the average Con Edison employee without an addiction history.

The policy described above with respect to the hiring of former addicts should be distinguished from Con Edison's policy with respect to the continued employment of persons who develop a drug abuse problem for the first time during the course of their Con Edison employment. These persons are required to immediately become drug free as a condition of further employment. Their adherance to this requirement is monitored through unannounced medical revisits and urine checks. Persons who are unable or unwilling to adhere to the requirements are terminated. This group, however, may be eligible for re-employment following their meeting our proof of stability criteria for a minimum of one year by participation in a recognized comprehensive competent treatment program.

In sum, while my ability to generalize about the Con Edison experience is limited both by numbers and the length of time since the implementation of our new policy, I can say that we have not thus far encountered any major problems in implementing a policy of employment of former drug abusers, including methadone maintainees, in an industrial setting.

New York, New York
October 23, 1974

Thomas J. Doyle M.D.

Thomas J. Doyle, M.D.

2772a

Exhibit 42—Statement of Witness Paul Kolisch

Beazer v. New York City Transit Authority

STATEMENT OF PAUL KOLISCH

Personnel Supervisor, BernzOmatic Corporation

I have agreed to appear as a witness in this case to describe my experience with the employment of rehabilitated former drug addicts at the BernzOmatic plants in Medina and Alden, New York, where I serve as Personnel Supervisor. I have been responsible for the formulation of personnel policies for these two plants, including the policy with respect to the employment of former drug addicts. I am thoroughly familiar with all of the operations carried out in these plants, including mechanical operations, training, supervision, personnel selection and safety.

BernzOmatic is one of the largest manufacturers of propane torches in the country. Until recently, there were approximately 25 employees in the Alden plant and approximately 145 in Medina. The jobs in both plants generally fall into the category of assembly line and manufacturing work. Thus, at the Alden plant, charcoal fire starters, cans and horns are assembled. In Medina, employees braze cylinders, assemble valves and build small tools.

The work at both plants is inherently quite dangerous as employees work with and around a number of heavy machines, including drill presses and punch presses. There are a number of heavy duty presses in the Medina plant including a necker and perforating punch. In the manufacture of fire extinguishers, aluminum slugs must be waxed by employees with dangerous and

caustic chemicals. Proper job performance and manual dexterity are crucial for the safety of the employee and his fellow workers. In addition, there is very little or no supervision in these plants. At the Alden plant, a foreman tells employees in the morning what they are to do during the day, and they are then left virtually on their own to do it.

For a period of time now, I have hired drug-free former addicts referred to me by the Iroquois Rehabilitation Center. The program has referred approximately 9 such persons to me. I have found the program to be extremely reliable in terms of the persons it has referred to me. My experience with these employees has been very satisfactory. Their attendance records have been good, their work quality very satisfactory, and their motivation extremely high. They have gotten along very well with their colleagues. I did not attempt to supervise them any more than the usual employee or formally monitor their progress. This group of employees, to my knowledge, has produced no accidents. In short, I have found the rehabilitated former drug addicts referred to me by the Iroquois Rehabilitation Center indistinguishable from other BernzOmatic employees.

I have concluded that neither a past history of drug abuse alone, nor participation in a recognized drug-free treatment program, is a valid reason to disqualify a person from work in an industrial setting. I intend to continue to hire persons referred to my by the Iroquois Rehabilitation Center.

Exhibit 43—Statement of Witness James E. Peterson

Beazer v. New York City
Transit Authority

STATEMENT OF JAMES E. PETERSEN

Director of Employee Relations, Kennecott Copper Company,
Utah Copper Division

I have agreed to appear as a witness in this case to describe my experience with the employment of former drug addicts at Kennecott Copper's Utah Copper Division.

Kennecott, a multi-national corporation, is the largest copper company in the world. The Utah Copper Division, which is the largest division of the metal mining division of Kennecott, employs some 7,500 persons, almost all of whom are actively engaged in heavy duty industrial mining work.

I have worked for Kennecott for approximately the past 26 years, and have served as Director of Employee Relations for the past 16 years. As such, I am responsible for all labor relations, contract negotiations, employment policies, training, management development, administration of benefit plans, and EEOC compliance for the entire Utah Copper Division. I am thoroughly familiar with the operations of the Utah Copper Division, and have had a major role in the formulation of personnel policies, including the policy of the company with respect to employment of former drug abusers.

Exhibit 43

Petersen

It is difficult in a short statement to characterize the danger and complexity of the work at the Utah Copper Division. It is extremely hazardous, heavy duty industrial work. In the open pit mining area, employees work with and around heavy duty large mobile machinery. Among the machines used are 150 ton trucks, 15 yard shovels, and 100 ton ore cars. Some of these machines are on tracks, others move independently. Utah Copper is the biggest earth moving operation in the world with over 400,000 tons of material (ore and waste) being moved from the mine to the concentrating plant every day.

In the concentrating plant, stationary ore machines grind and crush the ore which has been transported from the mining division. Two of Utah Copper's four plants are hot metal plants, including both a smelter and a refinery, each made up on extremely hazardous equipment. It is manifest that with work as complex and hazardous as ours, the safety of an employee and his fellow workers is absolutely dependent upon proper job performance. Our safety record, of which we are proud, is testified to by the fact that while the industry-wide average of accidents is 9 to 10 accidents per million man hours worked, Kennecott's accident average has consistently been approximately 2 accidents per million man hours worked. We have found our policy with respect to the employment of former drug abusers to have had no adverse impact on this safety record.

The substance of the Utah Copper Division's policy with respect to the employment of former drug abusers is that persons

who have been or are in treatment (either drug-free or methadone maintenance) or persons with a history of drug addiction who have been drug free for a period of time are wholly eligible for employment with Kennecott and may be placed in any job, and on any shift. Indeed, we do not even ask about drug abuse on our pre-employment application form, and any person who satisfies our general requirements with respect to skills, character, education and present physical condition is fully eligible for employment.

Persons working for the company who develop drug abuse problems are referred to an in-house counseling and referral program on a confidential and anonymous basis. While referrals are generally made to psychiatrists in the Salt Lake City area, we have also worked with Odyssey House and the Salvation Army Manhattan Project, both drug free treatment programs in Salt Lake City as well as Project Reality, a methadone maintenance treatment program. While these persons are not given any immunity from company disciplinary procedures for inadequate performance, no person is fired solely for heroin use, or, of course, for participation in a methadone maintenance treatment program. Indeed, the sole determinant of whether a worker is retained in the employ of Kennecott is whether his job performance is satisfactory.

While in the program, the person is allowed to remain on the job if he is able to work. Persons who are unable to work are fully eligible for our non occupational sickness and accident insurance benefits. The company treatment program is wholly

financed by the compnay. Persons who are terminated because of improper job performance may be rehired by Kennecott upon demonstrating their rehabilitation. Our in-house counseling program has been in operation since July of 1970, and in that time approximately 5,600 employees and dependents have availed themselves of the program's services. Of these, a substantial number have been drug abusers.

We consider the program, which covers alcoholics and persons with psychiatric problems as well as drug addicts, to be highly successful, both in terms of employee stability and productivity, and from a business point of view, in reduction of costs to the company. Thus, a study of 150 employees with a variety of problems, chosen at random, which compared the medical insurance and absenteeism costs for six months prior to their entry into our program with the same costs for the six months after the release from our program, shows that the company saved $128,000.

Both our employees and our nineteen labor unions have been very supportive of our policy with respect to the employment of former addicts. We have found there to be absolutely no adverse impact on our safety record which has remained outstanding.

Because of our success with the program, one of my employees, Mr. Otto F. Jones, has organized Human Affairs, Inc., outside of Kennecott. Human Affairs, Inc. acts on a consulting basis to help other companies establish a policy and a program

similar to Kennecott's. Programs have thus far been established at United States Steel Corporation's South Chicago and Geneva Works, for Philadelphia's public employees and for the Valley Bank of Phoeniz, Arizona. In addition, we have answered inquires from some 600 to 700 companies interested in adopting a policy and a program like ours.

In brief, Kennecott's experience with the employment of rehabilitated former drug addicts has been that they have performed as well as the population at large of workers of the Utah Copper Division. They have worked safely and competently in an extremely hazardous, very heavy industry setting. As businessmen, we have concluded that their good and dependable performance makes their employment sensible from an economic point of view. As industrialists, we have concluded that neither a prior history of drug abuse alone nor participation in either a methadone maintenance or a drug-free treatment program is a valid reason to disqualify a person from work in a hazardous industrial setting.

Exhibit 44—Statement of Witness Henry D. Biggart

STATEMENT OF HENRY D. BIGGART

Vice-President, Community and Customer Services,
New York City Off-Track Betting Corporation

I have served as Vice President for Community and Customer Services of the New York City Off-Track Betting Corporation (O.T.B.) since 1972. In that period of time, O.T.B. has made a special effort to employ persons who some other industries have been reluctant to employ. I am appearing today to describe the experience of O.T.B. with the employment of persons with a history of drug addiction, including persons maintained on methadone.

Two O.T.B. branches, one at 1133 Broadway and another at 575 Lexington Avenue were opened and staffed entirely by ex-addicts. The Corporation relied on the Vera Institute of Justice to pre-screen persons in methadone programs, for work readiness. It should be noted that persons in drug free modalities may be included in the program design. The basic criterion applied was that the persons had been employed in a program for at least six months and making progress. Of this group, Vera concentrated its attention on persons previously

deemed to be hard core unemployables because of the length of time of their addiction and/or other factors.

The persons referred by Vera were employed as cashiers in the two O.T.B. branch offices. For a period of time, a counseling program was available, but this program was withdrawn during 1974. At no time did the employees in the two "Vera" branches receive more supervision than comparable employees in other O.T.B. offices.

The position of cashier in an O.T.B. office is a very responsible and high stress job. Cashiers are responsible for their own cash with minimal supervision. A cashier can be fined, suspended or fired for shortages discovered at the end of the day. The amount of cash handled by each employee is large... often as much as $4000 - $10,000 a day.

The position of cashier in an O.T.B. office also involves a good deal of stress and strain on the employee. Besides being responsible for large amounts of cash, the employee must also tactfully handle sometimes irate customers. At two main periods during the day the branches become very crowded, and long lines form.

Our experience with the employment of persons with a prior history of drug addiction has been highly favorable. For example, of the ex-addicts originally hired to staff the 575 Lexington Avenue branch, 10 have been promoted, and now work in other O.T.B. branches; 2 have become branch managers, 4

have been transferred to other branches, and 9 have resigned or been terminated. None has been terminated because of a resumption of drug use. The attrition rate is approximately equal to the overall attrition rate at O.T.B.

Of the 14 ex-addicts hired in August 1972 to staff the 1133 Broadway branch, one has been pahsed in to the overall O.T.B. System via transfer to a reguar O.T.B. office, one has been transferred to O.T.B.'s corporate headquarters, as a research assistant, and two have been terminated, producing a monthly negative termination rate of 1.9%, compared to 2.3% for the corporation as a whole. One termination was due to the use of soft drugs and/to excessive absences. the other The employee who is now a research assistant at O.T.B. corporate headquarters was transferred because his new position was more suitable to his ability and preference.

The principal indicia of performance of O.T.B. branches are overall attendance records and cash shortages./ In both respects, the two branches staffed by ex-addicts have been within the mainstream of O.T.B. branches.

In brief, the experience of O.T.B. with the employment of rehabilitated former drug addicts has been that they have performed as well as the population at large of O.T.B. employees. They have performed capably and dependably in a responsible and high stress work situation. We have concluded from our experience that former drug history alone is not a reason to disqualify a person from work with large amounts of cash in a stress situation.

Exhibit 54—List of Job Positions Held by Beth Israel Methadone Maintenance Treatment Program Participants

SURVEY OF POSITIONS CURRENTLY HELD BY MMTP PATIENTS IN VARIOUS COMPANIES

	TITLE OF POSITION(S)
	Dispatcher
	Security guard
	Window washer
	Baker
	Stock clerk
	Maintenance man
	Interior designer
	Truck driver
	Teacher
	Showroom supervisor
	Dock builder
	Elevator mechanic
	Cinematographer
	Teller
	Copyboy, Routeman
	Cashier, Assistant manager
	Computer programmer
ldren	Child care worker
	Optometrist
1	Supervisor of central supplies
	Air conditioning mechanic
orp.	Parts foreman
	Salesman
	Teller

PX 54

Exhibit 54

	TITLE OF POSITION(S)
	Tug boat pilot
dical	Secretary
	Master electrician
ion	Bridge painter
ion	Youth counselor
	Director of Evaluation of Social Services Programs
	Supervisor of mailing room
	Teletype operator
	Ornamental iron worker
	Accountant
	Assistant manager of cafeteria
	Airline mechanic
	Assistant manager at International Hotel at Kennedy Airport
	Store manager
	Manager, Landscaper
	Train conductor
	Switchboard operator
	Office manager
	Jeweler journeyman
	Administrative assistant
n)	Laboratory technician
Co.	Clerk
	Security guard
	Computer programmer

	TITLE OF POSITION(S)
...t of	Supervisor of Sewage Treatment Plant
	Garageman
	...n editor, Chauffeur for N.B.C. executive
...tion	Clerk, Maintenance man, Dietitian, Cook
part-	Licensed practical nurse
	Community service aide, Exterminator
	Clerk
	Cable splicer, Repairman, Truck driver, Installer
	Printer
	Cashier
	Elevator mechanic
	Delivery man
	Tunnel signalman
	Salesman
	Window washer
	Counselor
	Driver
	Office clerk
	Rigg operator
	Shoe salesman
	Draftsman
	Service repairman
...ber)	Advertising sales manager

Exhibit 54

	TITLE OF POSITION(S)
rpet	Salesman
	Steamfitter
	Sheet metal worker
s	Union delegate
	Inspector
	Mail porters, Mail distributors, Clerks
	Elevator constructor
	Driver, Delivery man
	Supervising engineer
	Attendant
ork	Counselor

Exhibit 58—New York City Transit Authority
Rules and Regulations

NEW YORK CITY

TRANSIT AUTHORITY

RULES and REGULATIONS

Governing Employees

Engaged in the Operation

of the

NEW YORK CITY

TRANSIT SYSTEM

TASP-577-REV-MAY '72

EXHIBIT B

Exhibit 58

CONTENTS

PART I

RULES AND REGULATIONS RELATIVE TO SAFETY AND DISCIPLINE

Chapter 1. General Rules Applicable to All Employees

RULE		PAGE
1	Appointments to Positions; Assignment to Work	1
2	Addresses and Telephone Numbers	1
3	Knowledge of Rules	1
4	General Duties and Obligation of Employees	2
5	Reporting for Duty	3
6	Records, Time Cards and Paychecks of Employees	4
7	Payrolls of Employees Paid Bi-weekly	4
8	Reports by Employees	5
9	Resignation and Re-employment of Employees; Demotions	5
10	Conduct of Employees	5
11	Certain Acts of Employees Prohibited	6
12	Code of Ethics	8
13	System Property; Protection T. of; Return of Property Issued to Employ	11
14	Fire Protection; Instructions in e of Fire Extinguishers	12
15	Oil and Oily Waste	13
16	Advertising Matter	13
17	Receipt or Disbursement of Money; Assignment of Wages	13
18	System Telephones	14
19	Removal and Restoration of Power; Emergency Alarm System	14
20	Fan Operation and Control	15
21	Arrest of Employee; Subpoenas or Other Process; Testimony in Actions or Proceedings; Unauthorized Inspection of Equipment	15
22	Familiarity with Metropolitan Area	16
23	Employees Dismissed from Service Not to Enter Upon System Property	16
24	Authorized Free Riders; Identification Passes	16
25	Watches	17
26	Workmen Under or About Cars or Buses	17
27	Ejectment of Passenger; Report Thereof	17
28	Peddling and Begging	18
29	Articles Not to be Carried on Trains or Buses	18
30	Lost Articles	18
31	Medical Examinations	19
32	Bulletin Boards	20
33	Timetable; Schedule	21
34	Political Assessments or Contributions	21
35	Penalty for Misconduct and/or Incompetence	22

CONTENTS (Continued)

RULE		PAGE
	Chapter 2. Rules Relative To The Operation Of Trains	
36	Definitions; Train Movement; Speed Restrictions	23
37	Signals; Signal Parts; Defective Signals And Interlocking Signals	26
38	Moving Against Traffic	33
39	Indication Lights; Doors And Guard Lights	33
40	Air Brake Troubles	34
41	Defects And Unusual Conditions	35
42	Emergency Brake Valve	36
43	Passengers Leaving Trains In Emergencies	36
44	Employees Going Between Or Under Cars	37
45	Power Failure Or Removal	37
46	Breaking Apart Of Trains	38
47	Pushing A Train That Cannot Move Under Its Own Power	38
48	Coupling And Uncoupling Cars	39
49	Destination And Route Signs; Doors; Windows; Heaters; Fans And Vents; Motormen's Cabs	40
50	Main Knife Switch	40
51	Poor Vision And Slippery Rails	41
52	Smoke; Fire; Flood Or Accidents	41
53	Handbrakes	42
	Chapter 3. Definitions, Information and Rules Relative to Signaling	
54	Hand, Flag and Light Signals	44
55	Signal Colors	44
56	Emergency Whistle or Horn Signals	45
57	Train Whistle or Horn Signals	45
58	Train Buzzer Signals	45
59	Fixed Signals	46
60	Automatic Signals	46
61	Interlocking	47
62	Time Controlled Signals	48
63	Miscellaneous Light Signals	49
64	Automatic Stop	51
65	Miscellaneous Sign Signals	52
	FLAGGING RULES	
66	Responsibilities	76
67	Flagging Signal Colors and Use Thereof	77
68	Flagging Signals	77
69	Caution Lights and Flags	78
70	Proceed Lights and Flags	79
71	Location of Caution and Proceed Lights and Flags	79
72	Portable Train Stops	80
73	Flagging Procedure	81
74	Lights and Flags, Required Equipment and Procedure	83

CONTENTS (Continued)

Rule		Page
75	Individuals, Pairs and Small Groups Moving From Point to Point	86
76	Special Instructions to Motormen and Others	87
77	Employees Entering Upon Tracks	87

Chapter 4. Rules Relative to The Operation of Buses

78	Brakes	101
79	Reporting Unusual Conditions	101
80	Passenger Stops, Unusual Stops Etc.	101
81	Movement of Buses	102
82	Reverse Movement of Bus	104
83	Buses Passing Buses	104
84	Windows, Heaters, Ventilators and Window Latches	105

Chapter 5. Rules Relating to Accidents and Unusual Occurrences

85	Preventing Accidents; Employees to Guard Passengers	106
86	Employees to Make Written Reports of Accidents or Unusual Occurrences	106
87	Further Facts to be Included in Reports	106
88	Accident Reports Confidential	107
89	Passengers Unable to Care for Themselves	108
90	Accidents to Employees	108
91	First Aid Kits and Stretchers	109

PART II

RULES AND REGULATIONS RELATIVE TO DUTIES AND RESPONSIBILITIES OF EMPLOYEES

Chapter 6. Duties and Responsibilities of Certain Supervisory Employees of the New York City Transit System

92	General Manager	110
93	General Superintendent (Surface)	110
94	Assistant General Superintendents	110
95	Superintendents	111
96	Assistant Superintendents	111
97	Supervisors	111
98	Assistant Supervisors	111

Chapter 7. Duties and Responsibilities of Employees in The Rapid Transit Operations Department

99	Trainmasters and Assistant Trainmasters	112
100	Chief Schedule Maker (Rapid Transit)	112
101	Schedule Makers (Rapid Transit)	113

CONTENTS (Continued)

RULE		PAGE
102	Motormen Instructors and Assistant Motormen Instructors	113
103	Train Dispatchers	113
104	Yardmasters	114
105	Assistant Train Dispatchers	115
106	Motormen	115
107	Conductors Assigned to Train Service	118
108	Conductors Assigned to Platform Duty	121
109	Towermen	121

Chapter 8. Duties and Responsibilities of Employees in the Station Department

110	Asst. General Superintendent, Stations	123
111A	Superintendent, Stations, Chief of Operations	123
111B	Superintendent, Stations, Support Activity	123
111C	Superintendent, Stations, Labor Relations and Personnel	123
111D	Superintendent, Stations, Booth Activities	124
111E	Superintendent, Stations, Environmental Control	124
111F	Superintendent, Stations, Night Superintendent	124
112	Station Supervisors	124
113	Foreman, Turnstiles (Formerly - Inspector Of Safes)	125
114	Assistant Station Supervisors	125
115	Field Auditors	125
116	Collecting Agents	126
117	Railroad Clerks	126
118	Railroad Clerks Assigned Duty Other Than Booths	128
119	Railroad Porters	128
120	Railroad Porters Assigned to Other Departments	129

Chapter 9. Duties and Responsibilities of Employees in The Surface Transportation Department

121	Chief Surface Line Dispatchers	130
122	Senior Surface Line Dispatchers	130
123	Surface Line Dispatchers	130
124	Schedule Makers (Surface)	131
125	Surface Line Operators	131

Chapter 10. Duties and Responsibilities of Employees in The Maintenance of Way Department

126	Foremen	133
127	Inspectors	133
128	Maintainers	133
129	Trackmen and Trackmen (Specialists)	133
130	Principal Telephone Operator	134
131	Supervising Telephone Operators	134
132	Senior Telephone Operators	134
133	Telephone Operators	135

CONTENTS (Continued)

RULE PAGE

Chapter 11. Duties and Responsibilities of Employees in The Power Department

134 Foremen 136
135 Maintainers 136

Chapter 12. Duties and Responsibilities of Employees in The Car Maintenance Department

136 Foremen 137
137 Assistant Foremen (Car Cleaning) 137
138 Maintainers 137
139 Road Car Inspectors 137
140 Car Inspectors 138

Chapter 13. Duties and Responsibilities of Employees in The Surface Maintenance Department

141 Foremen 139
142 Bus Maintainers "A" 139
143 Bus Maintainers "B" 139

Chapter 14. Duties and Responsibilities of Employees in The Special Inspection Department

144 Director of Special Inspections 140
145 Supervisory Employee in Charge (Investigations and Inspections) 140
146 Supervisory Employee in Charge (Property Protection) 140
147 Special Inspectors 140
148 Foremen (Railroad Watchmen) 141
149 Railroad Watchmen 141

Chapter 15. Duties and Responsibilities of Employees Variously Assigned

150 Maintainers 143
151 Helpers 143
152 Motor Vehicle Operators 143
153 Car Cleaners 143
154 Railroad Caretakers 144
155(A) Railroad Stock Assistant 144
155(B) Railroad Stockman 145
155(C) Foreman (Stores, Materials and Supplies) .. 145

PART III

RULES AND REGULATIONS RELATIVE TO WORKING CONDITIONS OF EMPLOYEES

Chapter 16. Vacation, Sick Leave and Other Allowances

156 Passes ..... See Part III
157 Injury on Duty ..... "
158 Leaves of Absence With Pay ..... "

CONTENTS (Continued)

RULE		PAGE
159	Jury Duty	See Part III
160	Leave of Absence for Death in Family —	"
	Hourly Rated Employees	"
161	Payment for Attendance at Civil Service Examinations	"
162	Leaves of Absence Without Pay	"
163	Leaves of Absence Not to be Granted to Perform Work Outside the Authority's Employment	"
164	Annual Vacation Allowances	"
165	Holidays	"
166	Sick Leave	"

Exhibit 58

PART I
RULES AND REGULATIONS RELATIVE TO SAFETY AND DISCIPLINE

CHAPTER 1

GENERAL RULES APPLICABLE TO ALL EMPLOYEES

APPOINTMENTS TO POSITIONS; ASSIGNMENT TO WORK

Rule 1.

(a) Appointments and promotions to positions shall be in accordance with the Civil Service Law and the Public Authorities Law of the State of New York and the Rules and Regulations of the City Civil Service Commission of the City of New York.

(b) Employees shall be assigned to work in the position for which they have been qualified and to the division or department to which the Authority, or the appointing officer for the Authority, may direct.

(c) The Authority reserves the right to assign a disabled employee to any position such employee is, in the opinion of the Authority, competent to fill and to make assignments to special duties in any class or grade, except as otherwise provided in the working conditions adopted by the Authority governing disabled employees.

ADDRESSES AND TELEPHONE NUMBERS

Rule 2.

It is the obligation of each employee to keep his department informed as to his correct name, address and telephone number. Any changes therein must be reported promptly to superiors on prescribed forms and recorded in the records of the Authority. Failure to report any such change within one week after the change takes place will subject the employee to disciplinary action.

KNOWLEDGE OF RULES

Rule 3.

(a) The rules and regulations governing the operation of the New York City Transit System are applicable to and must be obeyed by all employees except members of the uniformed transit police force who are subject to provisions of the Transit Police Manual of Procedure.

(b) One copy of these rules and regulations will be lent, free of charge, to every employee of the System, for which a receipt will be required. Additional copies may be supplied, at the discretion of the Authority, for a satisfactory reason, for which a charge of one dollar ($1.00) per copy may be made.

(c) Employees must be conversant with and obey the rules and regulations that govern their particular duties and all special instructions issued by their superiors in reference thereto. Employees whose duties are concerned with the actual operation of the rapid transit system must be conversant with the rules and regulations governing the duties of other employees similarly engaged; employees whose duties are concerned with the actual operation of

the surface transportation system must be conversant with the rules and regulations governing the duties of other employees similarly engaged. If in doubt as to the meaning of any rule and regulation or instruction, employees must obtain an explanation from their superiors.

(d) All employees must have their copies of the rules and regulations available for reference at all times.

GENERAL DUTIES AND OBLIGATION OF EMPLOYEES

Rule 4.

(a) Employees are required at all times to perform their duties properly. They must not, whether on or off duty, engage in activities which will interfere with the proper performance of their duties.

(b) Employees while on duty are under the authority of and must obey the orders of supervision. They must, within their qualifications, perform such duties, in addition to those set forth in Part II hereof, as the superiors to whom they report may direct. Special instructions issued subsequent hereto must be obeyed while in force. Safety rules, manuals of instructions, etc., in force prior to, or promulgated by department or division heads subsequent to, the adoption of these rules, shall have the same force and effect as though herein set forth in full.

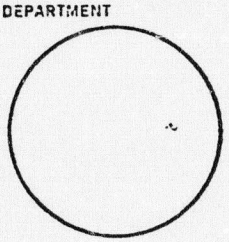
(c) Employees must render every assistance in their power in carrying out these rules and regulations and must report to their superiors any violation thereof.

(d) It is the duty of all employees to report to their superiors all dangerous, hazardous or defective conditions which they may observe or which may be brought to their attention. If it is a minor condition which they are qualified to correct, they should correct the condition to the extent of their ability and report the work performed by them to their immediate superior.

(e) All employees, including those in supervisory capacities, are required to extend the fullest cooperation to members of the Special Inspection Department and must accept for all purposes of identification cards issued annually to members of the Special Inspection Department's Undercover Squad when such cards are signed on the reverse side by the Director of Special Inspections and the General Manager. The obverse and reverse sides of these cards are shown on the following page.

NEW YORK CITY TRANSIT AUTHORITY
SPECIAL INSPECTION DEPARTMENT

1972

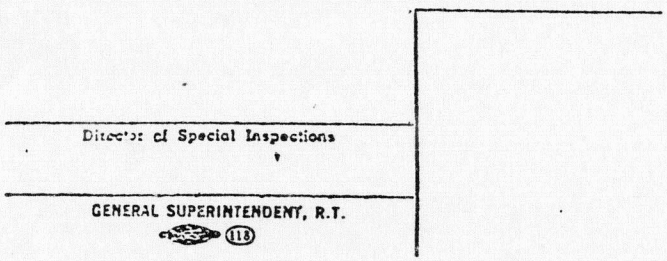


DIRECTOR OF SPECIAL INSPECTIONS

GENERAL SUPERINTENDENT, R.T.
EXECUTIVE OFFICER, O.&M.

Exhibit 58

The holder of this card is a member of the Special Inspection Department's Undercover Squad. His thumb print appears below.



(f) All employees, whether on or off duty on System property, must, upon request, promptly identify themselves to members of the Transit Police or Special Inspection Departments. It is recommended that all employees, off duty and off System property, promptly identify themselves, upon request, to members of the abovementioned two departments.

(g) All employees engaging in any occupation, business or profession, including self-employment, outside the Authority must notify their department heads of such activities, giving the name, address and telephone number of such other employer, the date upon which they commenced such employment, the days of the week upon which they perform their duties for such other employer, their hours of such employment, the duties therein and any change in such dual-employment.

(h) Employees so assigned are responsible for, and must distribute, pay checks and identification cards in accordance with outstanding instructions. They must not give a pay check to anyone except the employee whose name is imprinted thereon and then only after proper identification. They must not give an identification card to anyone except the employee whose name is imprinted thereon and then only after first receiving from said employee the properly signed, expiring identification card in return.

(i) Employees required to be licensed in the performance of their duties must immediately notify their superiors of any suspension or revocation of such licenses or of any change in status or identification numbers upon the renewal of such licenses.

REPORTING FOR DUTY

Rule 5.

(a) Employees must report for their assignments as directed. Absence from duty without proper authority is regarded by the Authority as wilful neglect of duty and as a serious breach of discipline. All leaves of absence for personal business must be approved in advance, except for such emergencies as death in immediate family and other unforseeable occurrences. Sick leave, whether with or without pay, will be granted only upon proper evidence

that the employee was actually ill and unable to perform his duties during the period of the absence.

(b) If an empoyee reports late for duty, he will be penalized for his tardiness and he may not be permitted to work on that day.

(c) Employees must give proper notice in person or by telephone to their assignment desks or control offices of their intention to be absent from work, at least one hour before their scheduled reporting time, so that a substitute may be provided if necessary, unless a leave of absence has been previously authorized. Such advance notice will be recorded by the person receiving the message. Failure to give such notice will be regarded as a separate violation of the rules, in addition to being recorded as reporting late or absent without leave. Such notice will not be regarded as a valid reason for absence from duty nor shall the employee be deemed to be excused from duty by reason of such notice. Every absence from duty without previous proper authority is considered neglect of duty which is detrimental to the service.

RECORDS, TIME CARDS AND PAY CHECKS OF EMPLOYEES

Rule 6.

(a) Heads of departments or bureaus and employees assigned to direct and supervise the work of other employees must maintain complete records of the employees under their direction or supervision and must keep accurate accounts of the time of each such employee.

(b) All employees, unless otherwise directed, must report daily, on prescribed time records, the amount of time on duty, the actual reporting time, the time relieved, the account or job number of each job and the time devoted thereto. Time records on which overtime is claimed must be approved by the proper authority. Failure to submit a proper time record at the end of a payroll period may result in a delay of employee's check for such period.

(c) Employees are absolutely prohibited from punching the time-clock cards or entering the names on time records of other employees.

(d) The Authority will exercise its right to recover overpayment of salary or wages and will adjust such payment of salary or wages as it determines to be improper.

PAYROLLS OF EMPLOYEES PAID BI-WEEKLY

Rule 7.

Payrolls for employees who are paid on a bi-weekly basis are made up at the beginning of each pay period on the assumption that every employee will be present for the full period. This practice is necessary to enable the payrolls to be examined by the Department of Personnel of the City of New York so that the pay checks may be ready for distribution on alternate Fridays throughout the year. Whenever an employee is absent from work during the two-week period for which the payroll is prepared in advance, the amount of salary appearing opposite such employee's name on the payroll is erroneous, and the necessity of correcting such payroll and issuing a new check for the amount actually due causes delay in the payment of those employees who have been absent from work during the two-week period. As a convenience to the employee, the Authority may permit a check to be released

without delay, provided the employee signs a receipt for payment of salary without deduction for absence for the period in which an absence occurred and agree that a deduction for the number of days of absence be made from his future compensation.

REPORTS BY EMPLOYEES

Rule 8.

(a) Written or oral reports must be complete and accurate. Employees who knowingly submit, or make, reports containing false statements shall be charged with misconduct and incompetence.

(b) Supervision must not knowingly accept incomplete written reports from employees.

RESIGNATION AND RE-EMPLOYMENT OF EMPLOYEES; DEMOTIONS

Rule 9.

(a) If an employee resigns from the Authority or be terminated for any reason except retirement and be subsequently re-employed, he shall have the status of a new employee, subject to Civil Service Law and the Rules and Regulations of the City Civil Service Commission of the City of New York.

(b) Unless otherwise ordered by the Authority in disciplinary proceedings, an employee who has accepted promotion to a higher title or who has accepted permanent appointment from a civil service list to another title within the Authority, without a break in service, and who, within six (6) months thereafter, is demoted or restored to his former title, shall have the same preference status in the title which he held at the time of promotion or appointment and the same rate of pay which he would be receiving had his services in that title been uninterrupted by such promotion or appointment. An employee desiring such demotion must initiate his request in sufficient time for his application to reach the Personnel Office of the Authority at least twenty (20) working days before the expiration of the six months period.

(c) Unless ordered by the Authority in disciplinary proceedings, a permanent employee, who has been assigned or promoted provisionally to a higher title shall not, upon return to his permanent classification, lose by reason of such temporary assignment, any rights or preference status accruing to such employee in the lower classification, including any increased rate of pay, if any, which the rules and regulations or rate schedules of the Authority would have entitled him to receive had he continued without interruption in his permanent classification.

CONDUCT OF EMPLOYEES

Rule 10.

(a) Strict propriety of conduct is required of employees while on duty or on System property.

(b) Employees are required carefully to avoid such behavior as would tend to create adverse criticism of the Authority or of the System. Their conduct, whether on or off duty on System property, is required to be such as to merit the confidence and respect of the public.

(c) Employees must be suitably attired while on duty and must present a neat and tidy appearance. Male employees whose duties bring them into contact with the

public must be clean shaven, although neat and trim mustaches and/or beards may be worn, subject to the approval of the department head. No eccentricity of personal appearance or attire unsuitable for the public service will be permitted.

(d) Employees must treat all passengers and their fellow employees with courtesy, avoid argument and exercise patience, forbearance and self-control under all conditions. They must be attentive and helpful without being officious or offensive.

(e) Employees must not make threatening gestures towards, or commit assault or battery against, any person, nor use loud, uncivil, indecent or profane language, even under the greatest provocation.

(f) Employees required to wear uniforms must at all times when on duty wear the prescribed uniform and badge. The uniform must be kept neat and in good repair. Uniformed employees are not permitted to wear buttons, badges or other insignia other than those specified as part of the regulation uniform, except by permission of the Authority.

(g) Employees must have with them at all times their badge and/or properly signed identification card and must not lend, transfer or, under any circumstances, allow their identification cards or badges to leave their possession.

(h) Employees whose duties require them to contact the public must during their assignments give their name and pass or badge number, without delay or argument, to any passenger who may request same.

(i) Employees instructing new employees must give their undivided attention to, and assume responsibility for, the respective duties of their position.

CERTAIN ACTS OF EMPLOYEES PROHIBITED

Rule 11.

(a-1) *Employees in titles in Groups I and II of the Rapid Transit Railroad Service Classifications.*

Employees in these titles must not drink alcoholic beverages of any nature during their tours of duty; nor may they drink such beverages at any time to an extent making them unfit to report for duty or to be on duty. They must not, while on duty, bring, possess, or carry alcoholic beverages on system property. The habitual use of alcoholic beverages or the indulgence therein to excess at any time is prohibited. Alcoholic breath, incoherent speech or staggering is prima facie evidence of being in an unfit condition. Employees suspected of drinking alcoholic beverages before or during their tours of duty must be directed to submit to a blood-alcohol examination, whether or not they admit such indulgence. Failure by an employee to submit to such examination shall subject him to immediate suspension and disciplinary action.

(a-2) *Employees in titles other than those described in paragraph 1.*

Such employees must not drink alcoholic beverages on system property; nor may they drink such beverages at any time to an extent making them unfit to perform the duties of their position. Employees suspected of drinking alcoholic beverages before or during their working hours to an extent making them unfit to perform their duties, must be required to submit to a blood-alcohol examination, as set forth in paragraph 1.

(b) Employees must not use, or have in their possession, narcotics, tranquilizers, drugs of the Amphetamine group or barbiturate derivatives or paraphernalia used to administer narcotics or barbiturate derivatives, except with the written permission of the Medical Director — Chief Surgeon of the System.

(c) Employees must not indulge in card playing, dice throwing or gambling in any form while on System property.

(d) Smoking by the public, or by employees, on the New York City Transit System or on buses of said system is prohibited by Section 139.07 of the New York City Health Code which reads as follows:

". . . no person shall smoke or carry an open flame or a lighted match, cigar, cigarette or pipe in or on a public transportation facility."

(e) Employees must not sleep, loaf, lounge or, without proper authority, play radios while on duty, or neglect or shirk any duty. They must not allow others to perform any part of their duties without proper authority. They must not read newspapers, magazines, books or any other such literature while performing their duties.

(f) Employees must not violate any criminal law, commit any illegal act, or be a party to any immoral or indecent conduct, whether on or off duty.

(g) Employees shall not utilize or operate any System conveyance or property without permission.

(h) Employees must not utter treasonable or seditious words or be guilty of treasonable or seditious acts which would be cause for removal under provisions of the State Laws applying to Civil Service or other public employees.

(i) While on duty or on the premises of the System, employees must not solicit or accept any fee, reward or remuneration from passengers or fellow employees or solicit money for gifts, testimonials or for any other purpose, except for such cause as the Authority may authorize.

(j) Employees must not post, allow to be posted, or circulate notices or literature of an unauthorized nature on the property of the System.

(k) Employees must not ride in unoccupied motormen's cabs.

(l) Employees must not tamper with lamp globes by coloring the same, or place thereon or attach thereto or to the shades thereof material of any kind.

(m) Spitting in or from cars or buses, on or from station floors, stairs or platforms, either by passengers or employees, is strictly prohibited. Persons seen spitting as above must be cautioned and their attention called to the order of the Board of Health. Should a passenger persist in spitting after having his attention called to the matter, employees should take such action for the ejection of such passenger as is consistent with Rule "27" and must secure names and addresses of witnesses and make a full report in the same manner as in accidents.

(n) Employees must not interfere in any way or talk with train service employees or bus operators while the latter are operating trains or vehicles, except when necessary.

(o) Lounging, running and skylarking on stations and through trains or buses is forbidden to both passengers and employees. Employees should warn passengers of this prohibition.

(p) Motormen must not allow any person, except trainmasters, assistant trainmasters, motormen instructors, assistant motormen instructors and road car inspectors making repairs, to ride in the operating cab with them without a written order from the General Manager, the Assistant General Superintendent, Rapid Transit Operations, a superintendent (Rapid Transit Operations), a trainmaster, an assistant trainmaster, a motorman instructor or an assistant motorman instructor.

(q) Littering System property is strictly prohibited. Employees must not throw newspapers or any other debris from trains, buses, stations or structures. They must not place newspapers or other debris under car or bus seats. They must deposit ALL refuse in waste receptacles provided for this purpose.

(r) Employees are prohibited from jumping over or scaling enclosures around System property and must use only authorized entrances to enter or exit from said property. Employees must not jump on or off cars or buses.

(s) Employees must not enter upon or cross the tracks of the System or enter any yard, storage area or other enclosure of the System, except when absolutely necessary in the performance of duty.

(t) Employees must expect trains to run at any time on any track in either direction. They must look in each direction before entering upon or standing close to any track and must be particularly careful not to touch the contact rail.

(u) Stepping onto a track in front of or between moving cars is an imprudent and hazardous act and is always accompanied by great danger and personal risk; employees are forbidden to take such risk.

(v) Employees must not go under or between cars or buses until they have ascertained that it is safe to do so and must not take short cuts through other dangerous areas.

(w) Employees must inform themselves of the location of areas where there is insufficient space between the sides of cars and structures abutting on trainways to permit a person safely to pass or stand and must exercise extreme care when working at such locations. Such locations are usually indicated by No Clearance Signs. (See Fig. 67)

(x) Employees, except those working in freight service, must not hang upon or lean beyond the sides of moving cars except as required by Rule 107 (t).

(y) No property, personal or otherwise, may be removed by employees from System premises, unless accompanied by a properly authorized material permit or duly authorized by a proper supervisory employee.

(z) When on duty employees must not use any means of transportation other than those provided by the New York City Transit System, unless specifically authorized.

CODE OF ETHICS

Rule 12.

(a) No officer or employee of the Authority, whether paid from operating or capital funds:

1. shall be or become interested, directly or indirectly, in any manner whatsoever, except by operation of law, in any business dealings with the Authority, with its subsidiary or with the South Brooklyn Railway Company;

2. shall act as attorney, agent, broker or employee for any person, firm or corporation interested, directly or indirectly, in any manner whatsoever, in business dealings with the Authority, with its subsidiary or with the South Brooklyn Railway Company;

3. shall accept any valuable gift, whether in the form of service, loan, thing or promise, or any other form from any person, firm or corporation which to his knowledge, is interested directly or indirectly, in any manner whatsoever in business dealings with the Authority, with its subsidiary or with the South Brooklyn Railway Company;

4. shall represent private interests before the City or its agencies;

5. shall appear as attorney or counsel or otherwise represent private interests or give opinion evidence against the interests of the Authority, of its subsidiary, of the South Brooklyn Railway Company or of the City or its agencies, in any litigation, or in any action or proceeding in the municipal term of the Criminal Court of the City of New York in which the City or an agency or any officer or employee of the City or an agency acting in the course of his official duties is a complainant, except where the legal interests of the Authority, of its subsidiary or of the South Brooklyn Railway Company and of the City or of its agencies are incompatible and the officer or employee has been duly assigned so to appear or give evidence in accordance with his official duties;

6. shall disclose confidential information concerning the property, management or affairs of the Authority, of its subsidiary or of the South Brooklyn Railway Company, nor shall he use such information to advance the financial or other private interest of himself or others;

7. shall engage in business or transaction, or accept private employment or render services for private interests when such business transaction, employment or service is incompatible with the proper discharge of his official duties;

8. shall solicit, negotiate for, or promise to, accept employment, by any person, firm or corporation with which he is engaged on behalf of the Authority or of its subsidiary in the transaction of business or which is or may be affected by his official action;

9. shall invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.

(b) No person who has served as officer or employee of the Authority shall within a period of two years after termination of such service or employment appear before the Authority, its subsidiary, the South Brooklyn Railway Company or the City or its agencies or receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which such person was directly concerned, or in which he personally participated during the period of his service or employment, or which was under his active consideration or with respect to which knowledge or information was made available to him during the period of said service or employment.

(c) As used in this rule the words "business dealings with the Authority or its subsidiary" shall mean:

1. any contract, work or business or the performance of or litigation arising out of or involving any such contract, work or business for the Authority or its subsidiary or the sale or acquisition of any property, under the jurisdiction or for the use of the Authority or its subsidiary, the expense, price or consideration for which is payable to or from the funds of the Authority or its subsidiary, the City treasury or by an assessment levied pursuant to law;

2. or the purchase, lease, rental or letting of, or grant of license or permit in relation to any real or other property under the jurisdiction of or for the use of the Authority or of its subsidiary.

(d) This rule shall not be construed:

1. to prohibit any officer or employee from being affiliated with, employed by or representing a person, firm or corporation whose direct and indirect interest in business dealings with the Authority or its subsidiary form an insubstantial part of its total business, provided that he has no direct or indirect interest in such business dealings and receives no part of the benefits thereof, and takes no active part in connection therewith;

2. to prohibit any officer or employee from appearing before the City or its agencies upon matters only incidentally requiring official action which do not develop into a substantial part of the employment provided that he has not been retained for the purpose of appearing before the City or such agency, and provided further that the compensation in whole or in part is not contingent or dependent upon action by the City or such agency;

3. to prohibit any officer or employee from accepting or receiving any benefit or facility which is provided for de available to citizens or residents or classes of s or residents under housing or other general welegislation or in the exercise of the police power;

4. to prohibit any officer or employee from holding stock or investing or holding any investment, in any corporation or any financial, business, commercial or other private transaction, provided that such stockholding or investment does not create a conflict with his official duties.

(e) As used in this rule, the term "Authority" shall mean the New York City Transit Authority, whether acting as a principal, agent or in any other capacity; the term "subsidiary" shall mean the Manhattan and Bronx Surface Transit Operating Authority; the term "City" or its "agencies" shall mean the "City of New York", a county, borough or other office, position, department, division, bureau, board or commission or other agency of government, the expenses of which are paid in whole or in part from the City treasury, including the Board of Education, the Board of Higher Education, and the Board of Trustees of a community college, and shall also include the New York City Housing Authority and the Triborough Bridge and Tunnel Authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

(f) Any violation of any of the provisions of this rule shall, at the option of the Authority, render forfeit and void the contract, work, business, sale or transaction affected.

SYSTEM PROPERTY; PROTECTION THEREOF; RETURN OF PROPERTY ISSUED TO EMPLOYEES

Rule 13.

(a) Employees must be thoroughly acquainted with, and qualified to operate, all equipment which they may be required to handle in the performance of their duties.

(b) The property of the System is owned by the City of New York. Employees shall not convert, borrow, or take System property for personal use nor shall they wilfully or negligently damage the same. They shall protect System property from damage or theft at all times to the best of their ability and must unite, when necessary, to protect System property. Employees will be held strictly accountable for failure to exercise necessary precautions to prevent theft of or any damage to System property or for carelessness or neglect or for their failure to report promptly any theft of or damage to System property.

(c) Employees will be responsible for all property entrusted to them and must see that such property is not misused and is kept in good order. In the event of fire, wreck, or accident affecting System property or any destruction or theft thereof, the employee responsible for such property must report to such employee's department office, at the earliest opportunity, the extent of damage to or loss of such property.

(d) The Authority's policy is not to pay for tools owned by and used by employees or for personal property, which may be lost or stolen. Employees leaving personal property in lockers or tool boxes do so at their own risk.

(e) Defective, damaged, or worn out property or equipment of the System which may come to the attention of an employee, whether or not such property or equipment is entrusted to the care of the employee, must be reported promptly by the employee to such employee's superior, giving a brief description of the property or equipment, where located, and to what extent defective or damaged. The oral report must be followed by a written report, when required.

(f) Employees must give a receipt for badges, books of rules, keys, tools and other property of the System which may be issued to them and must take care of and guard such property. Employees will be required to pay for any property entrusted to their care and use which is lost or damaged. Employees absent from duty for more than thirty (30) days on account of sickness or otherwise, when their superior shall require them so to do, must return to their said superior, or to an office of the System designated by such superior, all property of the System entrusted to them. Upon leaving the service, employees must return all property which has been issued to them. In the event of failure to return such property on the last day of work, they will not be given their final pay until such property has been returned or until they have paid for such property.

(g) Employees must not change or interfere with, in

any manner whatsoever, any equipment of the System except with proper authority and in the performance of their duties.

(h) Employees are forbidden to buy or cause to be made, or otherwise to obtain or possess, without authority, keys to fit any door, gate, locker, or other lock on equipment of the System.

FIRE PROTECTION; INSTRUCTIONS IN USE OF FIRE EXTINGUISHERS

Rule 14.

(a) The fire alarm system consists of City fire alarm boxes, gongs and whistles located in some yards and buildings. They must be used solely for the purpose of transmitting an alarm in case of fire. The general plans posted about the property show the locations of the fire alarm boxes. These plans also show the signals which will be sounded in the various yards and buildings to warn employees of a fire. It is required that each employee acquaint himself with the location of the fire alarm boxes where such employee works and the proper procedure to follow in case of fire.

(b) The system properties are equipped with fire fighting apparatus of various types. Every employee whose duties may require the use of such apparatus will be instructed in, and must become acquainted with, the locations and correct manner of using the various types of extinguishers and other fire fighting equipment.

(c) It is the special duty of all employees to follow instructions and to use every precaution to prevent the origin of fire and to cooperate in protecting System property, should a fire occur. If a fire occurs in the subway or on elevated portions of the structure or on the cars or buses, the person discovering it must proceed to the nearest telephone and notify the Desk Trainmaster or, in the case of buses, the Surface Control Office.

In all cases, the person making the telephone call must give the location of the fire, the number of the telephone he is using, his name, pass number and the department in which he is employed and must exercise all means in his power to extinguish the fire promptly, using fire extinguishers which are found at emergency alarm locations on the train-ways, indicated by a blue light (See Fig. 69) or such other appropriate equipment readily available. The employee must also report the fire and the location of the extitnguisher or other equipment used promptly to his respective Control Office which must then transmit the report to the Control Office of the Maintenance of Way Department.

If the person discovering or sent to a fire is unable to extinguish the fire, he must so notify the Desk Trainmaster; in the Surface Transportation or Surface Maintenance Departments the Surface Control Office must be so notified.

(d) SODA ACID FIRE EXTINGUISHERS SHOULD NOT BE USED ON ANY ELECTRICAL FIRES OR IN THE CASE OF FIRES NEAR THE CONTACT RAIL.

(e) Sand pails and water buckets or tanks are distributed throughout the yards, shop buildings and other places. Sand pails, water buckets and tanks must be used for fire purposes only. A report of their use, giving reason therefor and location, must be made promptly to the designated

authority.

(f) Dry type powder extinguishers may be used on all types of fires.

(g) Carbon dioxide (CO2) extinguishers may also be used on all types of fires, particularly electrical fires, but care must be exercised to insure adequate ventilation for the user.

(h) Fog nozzles located in river tubes may safely be used on electrical fires by trained personnel when the nozzle is in full fog position.

(i) Fire hydrants are located on System property and must not be used for other than fire purposes, except with special permission. Adjacent to fire hydrants will be found hose housing containing fire hose, spanner wrenches, hydrant wrenches and hose nozzles. For fire-drill purposes and testing of hydrants the fire drill conductor must have the required length of rubber lined hose at the location where the drill is to be conducted. Hoses must be returned to their housings. If they are not returned properly, employees responsible for such omission will be subject to discipline. Where "One-shot" canvas hoses are located, they should not be tested and must be replaced with new hoses after use.

(j) All missing or defective fire extinguishers and defects in the fire alarm and sprinkler systems discovered by the employees must be reported to the designated authority as outlined in paragraph (c).

OIL AND OILY WASTE

Rule 15.

Oils and oily waste and all highly flammable materials must be stored in fireproof houses, compartments or approved containers provided for that purpose. No oils or oily waste is allowed about the shops or other buildings, except in small quantities and then only during actual use.

ADVERTISING MATTER

Rule. 16.

(a) Only advertisements placed by duly authorized persons are permitted in or on the cars or buses, or in or on the stations or upon other property of the System. Employees must see that such advertising is not disturbed, soiled or mutilated.

(b) Notices and other advertising matters not officially authorized must not be permitted to be placed or distributed in or on cars or buses or in or on the stations or upon other property of the System.

RECEIPT OR DISBURSEMENT OF MONEY; ASSIGNMENT OF WAGES

Rule 17.

(a) No employee shall receive or disburse any money on the Authority's account, unless authorized by the Authority to do so in the performance of his duties.

(b) Wages must not be assigned, either in whole or in part, by employees, except with the prior approval of the Authority. Employees failing or refusing to pay their just debts or against whom bills are frequently presented

to the Authority for payment shall, unless satisfactory reasons are given, be subject to disciplinary action. Where more than one income execution against an employee's wages has been served upon the Authority within any period of twelve consecutive months such employee will be subject to dismissal.

SYSTEM TELEPHONES

Rule 18.

(a) Telephones of the System and in offices of the System are solely for the business of the System. THEY MUST NOT BE USED FOR PERSONAL CALLS.

(b) In the use of System telephones, preference must be given to messages relating to movements of trains and buses.

REMOVAL AND RESTORATION OF POWER; EMERGENCY ALARM SYSTEM

Rule 19.

(a) Emergency alarm equipment has been installed on the System to provide means whereby the power can be removed from the contact rail in cases of emergency by the operation of an emergency alarm box. The location of every such box on the trainways is indicated by a blue light. (See Fig. 69)

(b) All employees must be familiar with the emergency alarm system of the division to which they are assigned. They must be familiar, as well, with the methods of removing power from the contact rail.

(c) Any employee discovering a condition requiring the immediate removal of power must proceed at once to the nearest emergency alarm box and operate same according to instructions. The telephone alongside said box must then be used to notify the Desk Trainmaster having jurisdiction of the exact nature of the trouble.

(d) An emergency alarm box operation removes power from all tracks in the vicinity, except in certain river tubes. An employee operating an alarm box must acquaint the Desk Trainmaster having jurisdiction with the reasons for the operation, giving all necessary information, such as his name, title, pass number, alarm box number, location and the track affected so that power may be restored to the unaffected tracks.

(e) Employees must assist in clearing up the condition which necessitated the removal of power from the contact rail. When the condition has been cleared, the employee who operated the box, or the Rapid Transit Operations Department supervisor in charge at the scene, must call the Desk Trainmaster having jurisdiction to have the power restored.

(f) In areas equipped with emergency alarm boxes, when the removal of power is desired, but not immediately urgent, an employee seeking to have power removed from the contact rail will call the Desk Trainmaster having jurisdiction, giving the location, nature of trouble, his name, title and pass number. On portions of the Rapid Transit System not equipped with emergency alarm boxes, these instructions also apply.

(g) BEFORE REQUESTING RESTORATION OF POWER EMPLOYEES MUST EXERCISE EXTREME CAUTION TO PREVENT INJURIES TO PERSONS AND DAMAGE TO PROPERTY.

(h) Power will be restored only upon order of the Desk Trainmaster having jurisdiction to the System Operator having jurisdiction.

FAN OPERATION AND CONTROL

Rule 20.

(a) In case of smoke in the subway or river tubes, it is the duty of the employee first discovering the condition immediately to notify, by telephone, the Desk Trainmaster having jurisdiction and the employee's control office, if other than Rapid Transit Operations, giving his name and pass number, the exact location of the trouble and such other information as he may have regarding the cause and extent of the smoke.

(b) Upon receipt of information concerning the existence of smoke in the subway or river tubes, adjacent fans should be put into operation by the Desk Trainmaster having jurisdiction who must notify all departments concerned of the trouble and its location, so that the necessary employees may be sent to the location to clear up the trouble and to assist in restoring normal operation.

(c) Fans, having been started, must be shut off only by order of the Desk Trainmaster.

(d) The Maintenance of Way Department may request fans to be turned on in the subway or river tubes in cases of excessive humidity affecting train operation by notification to the Desk Trainmaster having jurisdiction.

ARREST OF EMPLOYEE; SUBPOENAS OR OTHER PROCESS; TESTIMONY IN ACTIONS OR PROCEEDINGS; UNAUTHORIZED INSPECTION OF EQUIPMENT

Rule 21.

(a) When an employee is placed under arrest, whether on or off duty, he must at the earliest possible moment notify his departmental authority of the fact of such arrest and submit a report of the occasion thereof. The departmental authority must at once notify the Law Department of the Authority of all facts and circumstances.

(b) When an employee is served with a subpoena, summons or other legal process, is requested to or intends to testify in any action or proceeding in which the Authority or any employee thereof in accordance with his or her duties, the subsidiary of the Authority or the South Brooklyn Railway Company is, or may be, involved, he must at once notify his departmental authority of the fact of such service, request or intention and submit a written report of the occasion thereof containing a full statement of his knowledge of all matters having any relation to the action or proceeding or the controversy involved therein. The departmental authority must at once notify the Law Department of all facts and circumstances.

(c) Whether or not served with a subpoena, summons or other legal process, no employee shall give evidence as an expert witness on behalf of any litigant against the City of New York, the Authority, its subsidiary or the South Brooklyn Railway Company, unless he is called to testify by the City of New York, the Authority, its subsidiary or the South Brooklyn Railway Company and, while so testifying, is required to give such evidence.

(d) Employees must forbid pensioners and other former employees engaged to appear as expert witnesses on behalf of any litigant against the City of New York, the Authority, or South Brooklyn Railway Company access to shops, yards, terminals, signal towers, dispatchers' offices, buses, cars or motormen's cabs on any of the lines

of the New York City Transit System for unauthorized inspection of equipment.

FAMILIARITY WITH METROPOLITAN AREA

Rule 22.

Employees in contact with the public must familiarize themselves with the principal parts of the City of New York and its vicinity so that they may be able to give information to passengers about streets, parks, connecting transit lines, railroad stations, airports and terminals, ferries, public buildings, large stores, hospitals, theatres, etc.

EMPLOYEES DISMISSED FROM SERVICE NOT TO ENTER UPON SYSTEM PROPERTY

Rule 23.

(a) Dismissed employees must be denied permission to enter upon System property, except as revenue passengers of the System.

(b) Employees must immediately notify their superiors when they become aware of the presence of unauthorized persons upon System property.

AUTHORIZED FREE RIDERS; IDENTIFICATION PASSES

Rule 24.

(a) Members of the New York City Police and Fire Departments and members of the New York City Transit Authority Police, when in uniform or upon presentation of their shields, will be carried free on all divisions of the New York City Transit System. Members of the uniformed force of the New York City Housing Authority, Correction Officers of the Department of Correction of the City of New York and members of the inspectional force of the Department of Sanitation of the City of New York, WHEN IN UNIFORM, shall be permitted to ride on the transit facilities of the Authority without payment of fare. Others may be carried free pursuant to special orders of the Authority or when presenting:

Various school passes and eligibility cards for reduced fare privileges during prescribed periods and between prescribed locations;

A special letter pass issued by the New York City Transit Authority or under its authority;

A regular employee's identification pass duly endorsed on both sides thereof with the signature of the employee.

(b) Children under six years of age will be carried free on all lines of the New York City Transit System, including rapid transit and bus lines, when accompanied by an adult, but not more than three children will be carried free with any one adult. When an adult is accompanied by more than three children under six years of age, full fare will be charged for each additional child.

(c) Free riders must ride where they will not interfere with employees operating trains or buses, or with the comfort of passengers, and must not occupy seats if revenue passengers are standing.

(d) Employees desiring to enter System property or ride free on trains or buses must permit employees in charge of the entrance or on duty thereat to examine their identification passes.

(e) Employees' identification passes, good for transportation on any of the lines of the New York City Transit

System, will be granted to all employees of the Authority for use only by the individual employee to whom issued.

(f) Employees receiving this pass accept and use it with the express agreement that they will assume all risks and liability of accidents and will in no event hold the New York City Transit Authority, or any of its members, responsible for any injury to their persons or for any loss or injury to their property, whether caused by the negligence of said Authority or by the negligence or wilful acts of its agents or employees, whether such wilful acts are done within the scope of their employment or otherwise.

(g) Such passes are not transferable and must be taken up if presented by any person other than the one named thereon.

(h) Upon leaving the service of the New York City Transit Authority, an employee must surrender this pass on the last day of work. If the pass is not surrendered, a penalty charge of fifteen dollars ($15.00) per month for each month of the unexpired term of the pass will be deducted from any pay due such employee.

(i) Parking enforcement agents of the Department of Traffic of the City of New York when in uniform and while on duty, will be permitted to ride on omnibuses without payment of fare.

WATCHES

Rule 25.

All employees concerned with train movements or work schedules or with the operation of the surface lines must have reliable, working watches which must be synchronized with System electric clocks, if necessary, before commencing each tour of duty.

WORKMEN UNDER OR ABOUT CARS OR BUSES

Rule 26.

A red lamp or flag or a special sign displayed on one or both ends of a car, a train or a bus indicates that workmen are on or about it. When thus protected it must not be coupled to or moved. Workmen will display these signals and they, alone, are authorized to remove them. In rapid transit, other equipment must not be placed on the same track so as to intercept the view of any such signal without first notifying the workmen. When the protective signal is used on a bus, other equipment must not be placed in such a manner as to nullify the protective effectiveness of the signal.

EJECTMENT OF PASSENGER; REPORT THEREOF

Rule 27.

(a) In case of ejectment of a passenger, no more force must be used than is necessary to remove the passenger from the car, bus or System property. No blows must be struck nor weapons used by employees, unless absolutely necessary for the defense of themselves or other persons, and under all circumstances care must be taken for the safety of passengers. In case the passenger voluntarily leaves the car, bus or System property or shows a willingness so to do, no hand must be laid on such person except to give needed assistance. In the case of a bus, where a passenger has paid his fare, the operator must offer to return the fare before ejectment is made.

(b) When an ejectment or arrest is made, a full report must be made as in accident cases. Equal care must be

taken to obtain names and addresses of witnesses, particularly the shield and precinct number of the police officer, if any, assisting in an ejection or an arrest.

PEDDLING AND BEGGING

Rule 28.

Solicitation of alms or begging in any form whatsoever or the selling of any articles, except as authorized by the Authority, or playing musical instruments is prohibited in buses, trains or stations or other property of the System. Employees must see that this rule is enforced and shall report any violation thereof to their immediate superior or to a transit patrolman for action.

ARTICLES NOT TO BE CARRIED ON TRAINS OR BUSES

Rule 29.

(a) Employees must not knowingly permit such long or bulky articles as are likely to inconvenience passengers to be carried into stations or on trains or buses. They must not at any time knowingly permit articles of an explosive nature, of radio-active material or which may cause accidents to be taken into stations or carried upon trains or buses.

(b) Ordinary hand baggage, instrument cases, small FOLDED baby carriages, small shopping carts, bundles or parcels which may be carried without inconvenience to other passengers may be taken aboard trains or buses, but employees must not knowingly permit them to be so placed as to obstruct doors or passageways.

(c) Articles which are so long as to project above the doors of cars or buses are prohibited.

(d) Employees must not allow any persons to carry onto, or convey upon, the System's lines soiled or dirty articles of clothing or bedding in baskets, in bundles or in other packages; fish, or baskets which have been used for the purpose of carrying fish; dogs or other animals unless they are enclosed in baskets that can be accommodated on the lap of the passenger without annoyance to other passengers; except that dogs properly harnessed and muzzled and accompanying blind persons or trainers carrying certificates of identification issued by a dog guide school will be permitted on trains and buses.

(e) Bass drums or other large musical instruments may be conveyed upon the System's lines, except on buses, upon payment of fare and presentation of a special permit.

(f) Employees must not take charge of, or become responsible for, any article except lost articles and articles carried on System business.

(g) Flammable materials must not be allowed upon trains or buses in passenger service or upon stations.

LOST ARTICLES

Rule 30.

(a) All articles found by employees in the cars, buses, stations, or elsewhere on System property, or turned over to employees by passengers will be sent to the most convenient location equipped with Lost Property bags. Articles will be entered in the Lost Property book, and a receipt given to the employee or passenger who turned them in. Articles must be properly tagged and transmitted to the Lost Property Office, 370 Jay Street, by the designated means, as soon as possible.

(b) All persons making inquiries concerning or claim-

ing lost articles must be referred to the Lost Property Office. However, in the event that a claim is made at a place where a lost article is being held pending transmittal to the Lost Property Office and identification is made to the satisfaction of the employee in charge, such employee may, upon receiving permission from the proper authority, deliver such article to the owner, taking a receipt therefor upon the form prescribed by the Authority on which must be entered the name of the owner, printed, in addition to the owner's signature in writing, together with his address, and telephone number, if any. The employee returning said property should also affix his name and pass number in space provided on the face of the form.

(c) EMPLOYEES MUST NOT DIVULGE INFORMATION AS TO CONTENTS OR DESCRIPTION OF ARTICLES FOUND.

(d) Articles of great value must be forwarded to the Lost Property Office by special messenger as soon as possible. When the Lost Property Office is closed, same should be forwarded to the Trainmaster's Office, Station Section Office, Maintenance of Way, Car Maintenance, or Surface Control Offices and left in the care of the supervisor on duty until such time as they can be forwarded to the Lost Property Office.

(e) If a person not in the service of the System finds an article on the System's property and refuses to deliver the article to an employee, the employee must inform the person of the rules and procedures respecting lost property, if possible ascertain the name and address of the person, a description of the article, names and addresses of several witnesses to the occurrence, and must make a full report thereof in writing to his superior who must immediately notify the Lost Property Office.

(f) No employee, other than those authorized by the proper authority, shall contact any owner of a lost article, either by letter or telephone, or in any other manner while said article is being held pending transmittal to the Lost Property Office.

(g) Employees responsible for the custody of Lost Property must check same against entries upon relieving one another.

MEDICAL EXAMINATIONS

Rule 31.

(a) Before appointment and before assignment to duty, all employees are required to undergo a medical examination conducted by the medical staff of the Authority. No candidate for employment having a medical defect or a history of a medical condition shall be appointed except with the approval of the General Manager.

(b) If the result of a medical examination by the medical staff of the Authority differs from that arrived at by the medical examiner for the City Civil Service Commission, the candidate must be re-examined. Such examination shall be a joint medical examination held at the medical office of the Authority in the presence of examining physicians of the City Civil Service Commission and the Authority. A report of their findings shall be submitted to the City Civil Service Commission for action.

(c) Motormen, surface line operators or other employees regularly assigned to the operation of motor vehicles and employees assigned as flagmen must pass periodic medical examinations. These examinations shall be made

every two (2) years of men under fifty (50) years of age and every year of those over fifty (50) years of age or at more frequent intervals, if required. Towermen, conductors, trackwalkers and signal maintainers must pass a periodic medical examination once every five (5) years. However, the Medical Director or any other department head may order an individual employee to submit to a medical examination at any time if in his opinion one is necessary. Such a medical examination has the effect of a periodic medical examination. Employees who have such actual or suspected medical defects as may incapacitate them shall be examined at such intervals as may be determined by the medical staff of the Authority. Such examinations shall not be made immediately following unusual fatigue.

(d) The medical staff of the Authority will make a complete examination in accordance with the prescribed form, to determine the presence of any abnormality or disease of the various organs of the body. However, in view of the increased value of the service of an employee because of his experience and familiarity with his duties and in order to prevent any undue hardship, an employee will not be removed from service, temporarily or permanently, unless the disability found on examination is such as will interfere with the proper performance of his duties or jeopardize the safety of himself or others.

(e) A permanent employee who has incurred a disability due to a medical condition incapacitating such employee for the performance of the duties appropriate to that employee's title may be reassigned, with the approval of the General Manager and the City Civil Service Commission, to a position entailing restricted duties and for which such employee is found medically qualified, provided that such reassignment does not involve an increase in salary or a promotion, except as otherwise provided in the working [illegible] adopted by the Authority governing disabled

[illegible]mployee who shall be temporarily relieved from service by reason of a mental or medical impairment which incapacitates such employee from properly performing his assigned duties or an employee who in accordance with (e) above has been reassigned with the approval of the General Manager and the City Civil Service Commission to a position entailing restricted or alternative duties will, unless in the meantime his employment has been terminated, be restored to the service or assigned to such employee's original assignment when, in the opinion of the medical staff of the Authority, the cause of disability has been corrected or improved to such an extent as to warrant return to the service, or to such original assignment.

(g) An employee absent from duty in excess of twenty-one (21) consecutive calendar days because of illness or injury, or for more than sixty (60) consecutive calendar days on any other account, MUST undergo a medical examination by the medical staff or the Authority before being allowed to return to duty. An employee absent from duty for twenty-one (21) consecutive calendar days or less or hospitalized for any reason may be required to undergo a medical examination. In the case of an injury off duty causing absence from duty, an employee must undergo such medical examination before returning to duty.

BULLETIN BOARDS

Rule 32.

(a) It is the responsibility of motormen, conductors,

towermen, surface line operators and others concerned in the movements of trains and buses, to examine Bulletin Boards before going on duty, and as frequently thereafter as possible. All other employees shall be familiar with the contents of all material posted on departmental Bulletin Boards.

(b) Authority Bulletin Boards are used for the posting of the following:

1. GENERAL ORDERS
2. BULLETINS
3. OFFICIAL NOTICES
4. EMPLOYEES' DAILY WORK ASSIGNMENTS*

*(Rapid Transit Transportation and Surface Transportation only)

(c) General Orders remain in effect until fulfilled, superseded or canceled.

(d) Bulletins and Official Notices remain in effect until fulfilled, superseded or canceled.

(e) Posting of unauthorized material is prohibited.

(f) Defacing, altering, or removing without authority material properly posted on Bulletin Boards is prohibited.

(g) The supervisory employee is responsible for the Bulletin Boards in his assigned territory and for the removal of fulfilled, superseded or canceled General Orders, Bulletins or Official Notices within forty-eight (48) hours of fulfillment, superseding or cancellation.

TIMETABLE; SCHEDULE

Rule 33.

(a) The Timetable is the authority for the movement of regular trains in passenger service, subject to the rules and special instructions.

(b) The Schedule is the authority for the movement of buses in passenger service, subject to the rules and special instructions.

(c) Employees whose duties are affected in any way by the Timetable or Schedule must be conversant with those applying on the division and lines to which they are assigned.

POLITICAL ASSESSMENTS OR CONTRIBUTIONS

Rule 34.

(a) No employee shall directly or indirectly solicit or receive any political contribution from other employees.

(b) Non-employees are prohibited from entering upon the premises of the New York City Transit System for the purpose of soliciting or receiving contributions to any political committee. Employees of the Authority having charge or control of any building, office, room, shop, station, yard or any other place within or on the premises of the System must see that non-employees do not enter same for the purpose of such solicitation or receipt of contributions to any political committee. In respect to the foregoing rules, attention of employees is called to Section 107 subdivision 3, of the Civil Service Law of the State of New York which provides: "No officer or employee of the State or any civil division thereof shall, directly or indirectly, use his authority or official influence to compel or induce any other officer or employee of the State or any civil division thereof, to pay or promise to pay any political assessment, subscription or contribution." also, to the following: The term "political committee" is defined in Section 320 of the Election Law of the State

of New York as meaning "any committee or combination of three or more persons cooperating to aid or to promote the success or defeat of a political party—or to aid or take part in the election or defeat of a candidate for public office" etc. The Federal Corrupt Practices Act, U. S. Code, Title 2, Section 241, subdivision (c), decrees that "the term 'political committee' includes any committee, association or organization, which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates," etc.

PENALTY FOR MISCONDUCT AND/OR INCOMPETENCE

Rule 35.

Disobedience of these rules and regulations or of instructions or any neglect of duty, or any disorder, or any act or omission prejudicial to efficiency or discipline, or any interference with the normal operation of train or bus service or maintenance of the New York City Transit System, shall be reason for charges of misconduct and incompetence and such misconduct or incompetence will be subject to penalty of dismissal, demotion, suspension or such other penalty as the Authority shall impose.

Exhibit 58

CHAPTER 2

TRAIN OPERATIONS

DEFINITIONS

The TIMETABLE shows the schedule, running time, train length, and route of trains in passenger service.

The SCHEDULE is the part of the timetable that shows the times a train is due to arrive at and leave from each listed station.

The RUNNING TIME is the time it should take to go from any station to any other.

A REGULAR TRAIN is a train listed on the Timetable.

An EXTRA TRAIN is a train not listed on the Timetable. It may be run when ordered by the Trainmaster or train dispatcher.

"RESTRICTED SPEED WITH EXTREME CAUTION." When you read this expression in any rule it means: do not go faster than ten (10) miles per hour; stop your train at least two (2) car lengths short of a visible object on the roadway; be ready to make a fast stop; watch rails and switches for the route and look for anything on the road that is unsafe to move past.

TRAIN MOVEMENT: SPEED LIMITS

POSSIBLE LOSS OF JOB

Rule 36.

(a) Hitting a car, bumping block or a visible object on the roadway, passing a STOP sign or STOP SIGNAL or going over a switch that is set the wrong way may cause an employee to lose his job.

WHO MAY MOVE CARS

(b) Cars must be moved only by motormen or other employees qualified to operate trains. A student motorman may move a train only with written permission and only with a motorman instructor or qualified motorman supervising him.

OVERRUNNING OR STOPPING SHORT OF PLATFORM

(c) If a motorman stops with the front or rear part of the train outside the station platform, he must signal the conductor by long buzzer signal NOT to open the doors. If the train is stopped with one or more doors past the station platform, he must help the conductor to permit exiting passengers to leave safely, and wait for the proper signal before moving. If he stops with the rear part of the train outside the station platform, he may pull up for a normal stop after receiving the proper signal from the conductor. A MOTORMAN MUST NEVER BACK UP A TRAIN IF HE STOPS OUTSIDE THE STATION PLATFORM.

EXPRESS TRAINS ON LOCAL TRACK

(d) Express trains running on local tracks will make only express stops unless crews are told otherwise.

KNOWLEDGE OF RUNNING TIME AND SCHEDULE

(e) All employees whose work has anything to do with the running of trains must know the running time and schedule of their run.

OBEY TIMETABLE

(f) Trains must run as shown on the timetable unless otherwise ordered by printed instructions or a supervisor.

SPEED OVER SWITCHES

(g) A train must not go faster than ten (10) miles per hour when moving to the left or right over a switch unless otherwise ordered or unless a "diverging route" sign shows some other speed.

DIVERGING ROUTE

SPEED COMING INTO TERMINALS

(h) A train must not go faster than ten (10) miles per hour coming into a terminal track ending in a bumper block.

SPEED IN RIVER TUNNELS

(i) A train must not go faster than thirty-five (35) miles per hour in a river tunnel.

TRAINS SKIPPING STATIONS

(j) Any train passing a station platform must not go faster than fifteen (15) miles per hour. The motorman must blow the whistle or horn in a series of short blasts.

SPEED OF WORK TRAINS

(k) Trains with any cars not used to carry passengers must not go faster than twenty-five (25) miles per hour on straight track and fifteen (15) miles per hour on curves.

RUNNING TRAINS FROM OTHER THAN THE FRONT END

(l) A motorman must NOT run any train from any place other than the front cab unless the following happens:

BEFORE MOVING

1. If it is a train of passenger cars on the road, with or without passengers on it:

the motorman must immediately call the Desk Trainmaster using his radio, if he has one, or the emergency telephone at the nearest blue light or station. The Desk Trainmaster will send the nearest motorman instructor or supervisor to the train as fast as possible. Before the train moves, the motorman instructor or supervisor must make sure by TEST that a flagman in the front cab, and the motorman in the cab he will run the train from, can talk to each other clearly at all times, using sound powered telephone. Light, hand, horn or buzzer signal must not be used.

2. If it is a train of passenger cars in the yard, or if it is a train with one or more cars not used to carry passengers:

a flagman must be on the front end of the first car. He must use only sound powered telephone to talk to the motorman running the train. This does not apply to movements of passenger cars in yards for shop purposes. The flagman must know BY TEST, before leaving the yard or starting, that he can stop the train with the emergency valve or hand brake. If the flagman loses control of the air brake, he must stop the train. If the flagman must walk on the roadway next to the train he is flagging, he must keep talking to the motorman at all times. If motorman cannot hear flagman he must stop train.

3. The motorman must NOT start his train until he is sure it is safe to move. He must wait for the proper signal from the employee on the front of the train.

WHEN MOVING

4. The motorman running the train must CONTINUE to receive and answer voice signals from the employee at the front end while the train is moving. If the signals stop at any time, the flagman or motorman must immediately stop the train and find out why.

5. As many flagmen as are needed must be put on the train between the front end and the motorman running the train so that the motorman can clearly hear all signals.

6. The train must not go faster than ten (10) miles per hour while it is being run from other than the front cab. If it is a train of passenger cars on the road, passengers must get off at the next station and the train must be sent to the nearest yard, siding or crossover.

MOVING CARS IN YARDS

(m) A motorman moving cars or trains in yards or on storage tracks, must:

1. stand where he can see best,
2. move only as far as he can see ahead,
3. not move faster than ten (10) miles per hour,
4. be ready to make an emergency stop and,
5. stop at all croswalks and blow his whistle or horn in a series of short blasts.

MOVING INTO SHOPS

(n) A motorman must STOP at STOP SIGNS outside shop doors. He must know the door is open high enough to pass through safely, blow his whistle or horn two (2) times, move into the shop no faster than five (5) miles per hour, looking closely at the tracks, and be able to stop at any time.

TRAIN LENGTH

(o) The longest train that may be run on any line is shown in the timetable or in special instructions.

Exhibit 58

SIGNALS: SIGNAL PARTS: DEFECTIVE SIGNALS AND INTERLOCKING SIGNALS

KNOWLEDGE OF SIGNALS

Rule 37.

(a) All employees whose work has anything to do with the running of trains must know the meaning of all signals.

USE OF LIGHTS AND FLAGS

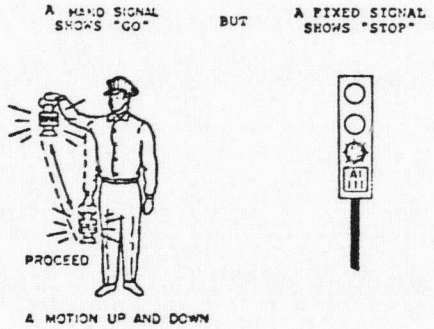
(b) Signal lights and flags of the proper color must be used. Those who may need to use them must see that they are kept ready for immediate use. Flags shall be used in daylight. However, when flags cannot easily be seen, lights must also be used. At all other times and places lights must be used.

SIGNALLING A TRAIN TO STOP

(c) When an employee wants to stop a train, he must keep signalling the train By HAND, FLAG, Or LIGHT until the train stops. The motorman must answer this signal with two (2) short blasts on the horn or whistle.

FIXED VERSUS HAND SIGNALS

d) When a hand, light or flag signal to go ahead is given while a fixed signal shows STOP, the motorman must STOP his train.



The motorman must question the flagman giving the signal to go ahead and move only when he knows it is safe to do so. An employee must not give a hand, light or flag signal to go while a fixed signal shows STOP unless he is permitted to do so.

MISSING, UNLIT OR WRONGLY LIT SIGNALS

(e) A train must STOP at a missing, unlit or wrongly lit signal. This must be reported immediately to the Desk Trainmaster.

OBEY SIGNALS

(f) Motormen must obey a fixed signal until the train reaches the next signal or sign and at the same time obey all other speed limits.

RED FLAGS OR LAMPS

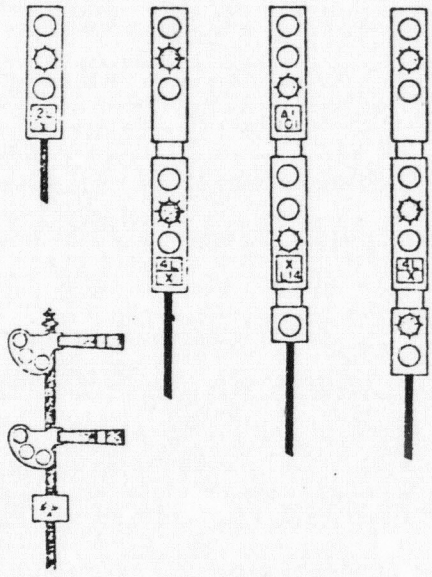
(g) A motorman must STOP and STAY at least one (1) car length from a flagman, red flags or red lamps until he is allowed to go.

RED (STOP) HOME OR DWARF SIGNALS

(h) A motorman must STOP at a home signal or dwarf signal with ALL lights RED.

HOME SIGNALS

STOP AND STAY

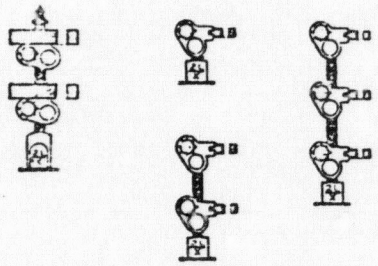


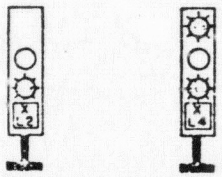
2820a
Exhibit 58

RED (STOP) HOME OR DWARF SIGNALS

DWARF HOME SIGNALS

STOP AND STAY



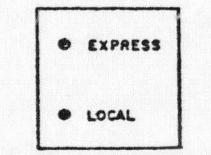


If he receives a proper hand, light or flag signal to go ahead, he must NOT move unless he:

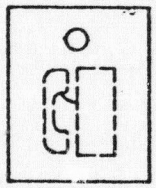
1. knows that the person giving the signal is an em-employee of the Rapid Transit Transportation or Signal Department, and
2. knows that the hand, flag or light signal is meant for his train, and
3. is sure the stop arm is down, and
4. sees that all switches are lined up for his route.

The motorman must then run his train with RESTRICTED SPEED AND EXTREME CAUTION until he reaches the next signal.

If the motorman does not receive a proper hand, light or flag signal to go ahead, he must use the route request telephone, button or lever on or near the signal to call the towerman.



ROUTE REQUEST BUTTONS



ROUTE REQUEST TELEPHONE

If there is no telephone, button or lever and if the signal stays at STOP, the motorman must call the Desk Trainmaster by radio. If he does not have a radio, he must call the towerman or Desk Trainmaster on the emergency telephone at the nearest blue light or station.

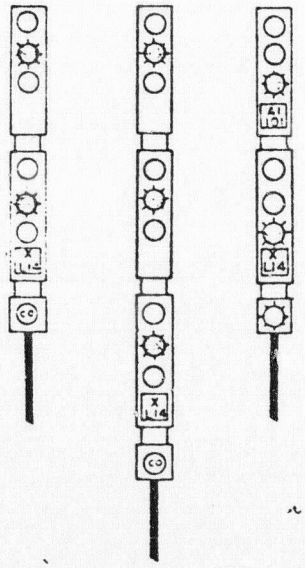
FLAGGING A TRAIN PAST A HOME OR DWARF SIGNAL

(i) No employee may signal a train to pass a home signal or dwarf signal showing STOP (ALL lights RED until:

1. the train has stopped,
2. he is sure that the switch or switches are lined up for the train's route and are secure,
3. the employee flagging the train has talked to the towerman in person, on the phone or by radio, and
4. the stop arms are down on that signal and on any signal at the other end of the switch or switches controlling movement in the opposite direction.

RED (STOP) HOME SIGNAL WITH CALL-ON

(j) A motorman must STOP at a home signal with two (2) or three (3) RED lights, even if the call-on signal at the bottom is lighted.



If the call-on is lighted, the motorman must press the lever or button on the signal to make the stop arm go down. When the stop arm goes down, the motorman may pass this type of home signal, but must run his train with RESTRICTED SPEED AND EXTREME CAUTION until he reaches the next signal.

STOP ARM FAILS TO GO DOWN ON CALL-ON

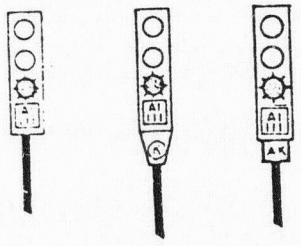
(k) The motorman must call the Desk Trainmaster by radio if the stop arm of a home signal with a lighted call-on does not go down after the lever or button is pressed twice. If he has no radio, he must use the emergency telephone at the nearest blue light or station and give the signal number and location.

HOME OR DWARF SIGNAL FLASHING FROM GO TO STOP

(l) If a home signal or dwarf signal clears for the train to go, and then changes to STOP (ALL lights RED), the train must stop at once. If the signal does not clear and if the proper hand, light or flag signal is not given, the motorman must call the Desk Trainmaster by radio, or the towerman by using the route request telephone at the signal. If he cannot use the radio or the route request telephone, the conductor or motorman must call the towerman or Desk Trainmaster on the emergency telephone at the nearest blue light or station.

RED AUTOMATIC SIGNALS

(m) A motorman must STOP for a RED automatic signal.



He must stop about fifteen (15) feet short of the signal, or at the yellow marker on the third (3rd) rail protection board. He must NOT MOVE until the light turns to yellow or green UNLESS:

1. the signal has an "AK" sign, or
2. the signal is on a storage track or in yard, or
3. an employee whom the motorman KNOWS is permitted to do so gives a signal to go ahead which the motorman KNOWS is meant for him, or
4. He calls the Desk Trainmaster by radio and is told to go.

The motorman must call the Desk Trainmaster immediately if he has a radio. If he has no radio, he must wait three (3) minutes, or ten (10) minutes if there is a train ahead, and then use the emergency telephone at the nearest blue light or station.

RED AUTOMATIC SIGNALS

(n) When he is permitted to move past a RED automatic signal, the motorman must pull up to the signal, stop, and make sure that the stop arm goes down. If the signal has a "K" sign he must use the lever, button or special key to make the stop arm go down. He must then go with RESTRICTED SPEED AND EXTREME CAUTION to the next signal.

STOP ARM FAILS TO GO DOWN ON AUTOMATIC SIGNAL

(o) If the stop arm of an automatic signal fails to go down by itself or after the button, lever or key is used, the motorman or conductor may hook the stop arm down and MUST let it up again after the train clears the stop arm, but only with the permission of the Desk Trainmaster. If an employee is there who will unhook the stop arm, the motorman must know who the employee is. The train must go with RESTRICTED SPEED AND EXTREME CAUTION to the next signal. This condition must be promptly reported to the Desk Trainmaster, giving the signal number, and location.

STOP ARM HOOKED DOWN

(p) If a motorman sees a stop arm hooked down, he must immediately report the location and signal number to the desk Trainmaster.

WRONG ROUTES

(q) If a signal shows a switch is set for a train to leave its scheduled route and the motorman has not been told to take the route, he must stop and call the towerman or Desk Trainmaster. He may, however take this route if the train is being sent over the local track instead of the express track and he will remain on his scheduled line.

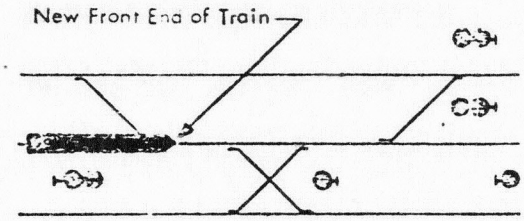
PARKING TRAINS ON SIDINGS OR IN YARDS

(r) A car or train left on a siding or in a yard must be placed behind the signal which will be the exit signal when the train is ready to leave, or behind the clearance mark or insulated joint plate marker. This is to permit switches and signals to work normally for other train movements.

NO SIGNAL IN FRONT OF SWITCH INCOMPLETE MOVES

(s) A switch is protected by a signal in front of it. If a motorman changes ends to move his train in the direction from which he has just come, but finds that there is no signal between the train and the FIRST switch ahead, he must NOT go ahead unless:

1. he has permission from the towerman, or
2. an employee whom the motorman KNOWS is permitted to do so gives a signal to go ahead.

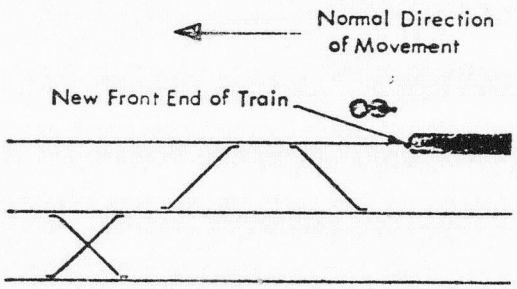


MOVES AGAINST TRAFFIC OVER SWITCHES

(t) If a motorman must move his train over switches and against the direction trains normally move on the track, he must move only if:

1. the proper home signal or dwarf signal is shown, or
2. he is given a proper flag, light or hand signal and has permission from the towerman.

He must go only as far as it takes for the rear of the train to clear the last home signal that will permit the train to move back in a normal direction.



LIGHTS OR FLAGS ON TRACK

(u) If a motorman sees any caution lights or flags on the track ahead, even if he does not see the men working, he must go with RESTRICTED SPEED AND EXTREME CAUTION and sound two (2) long blasts on the horn or whistle. If he cannot see ahead he must repeat the two (2) long blasts of the whistle or horn until he sees the men working or until he passes a green light or flag.

MISSING OR DARK FLAGGING LIGHTS

(v) A motorman who sees flagging lights dark or missing must report this to the flagman.

PROCEED LIGHT OR FLAG SIGNALS

(w) An employee giving a go-ahead signal with the wrong color lamp or flag, or with the wrong movement of the lamp, flag or hand, must be questioned by the motorman. The motorman must clearly understand the meaning of the signal before going. A signal given with a yellow lamp or flag means that there are more flagmen ahead.

PERSONS ON THE TRACKS

(x) A motorman who sees any person on or around the tracks must sound his whistle or horn. He must not pass this person until the person is in the clear and has given the proper signal for the motorman to go ahead.

MOVING AGAINST TRAFFIC

BEFORE MOVING

Rule 38.

(a) A train may move against the normal direction of traffic on a main track only if:

1. the crew is told to by the Desk Trainmaster, and
2. all members of the crew have been told of the move in person, and
3. a flagman is placed far enough forward in the direction the train will be moving to protect the train.

WHEN TO STOP A MOVE AGAINST TRAFFIC

(b) If a train starts to move against traffic:

1. before every crew member has been told of the move, or
2. without proper signals, or
3. when it is unsafe,

the train must be stopped at once by pulling the emergency brake valve.

WHEN MOVING AGAINST TRAFFIC

(c) When a motorman must move his train against the normal direction of traffic, he must change ends and run with RESTRICTED SPEED AND EXTREME CAUTION from what had been the rear cab. Before starting, and on entering stations, he must blow his whistle or horn in a series of short blasts.

INDICATION LIGHTS, DOORS AND GUARD LIGHTS

DEFINITIONS

Rule 39.

The AUTOMATIC STARTING SIGNAL or MOTORMAN'S INDICATION is the light in the motorman's cab that goes on when all side doors are closed and locked.

The CONDUCTOR'S INDICATION is the light or lights at the conductor's operating position that go on when all doors are closed and locked and when the zone or drum switches are set correctly.

The GUARD LIGHT is a light on a car that is lit if a door is not properly closed or locked.

SIGNAL NEEDED TO START TRAIN

(a) A motorman must not move the controller handle to start a train carrying passengers until the automatic starting signal is lit. He must also receive two long buzzer signals from the conductor before starting:

1. from a terminal, unless instructed by terminal supervisor
2. after an emergency stop, or
3. after cars are added or cut.

INDICATION FAILS AT TERMINAL

(b) If the motorman's or conductor's indication fails to work at a terminal with all doors closed and locked, the train MUST NOT leave carrying passengers unless the trouble can be fixed.

INDICATION PROBLEMS

(c) If the motorman's or conductor's indication fails to work after the train has left the terminal, the train must be stopped. It may continue carrying passengers if:

1. The conductor has indication although the motorman does not. In this case the motorman may move the train without the automatic starting signal being lit, but he must first receive two long buzzer signals from the conductor before starting from each station.
2. The motorman has indication and the conductor has at least one indication or alternate light for each side of the train, or can get the indication to work by moving to a new position one car away.
3. The motorman has indication and the number of passengers is small enough so that they can all be moved easily and quickly into the half of the train for which the conductor has indication. In this case the conductor will open only the doors on the good half of the train and close off the other half.

If none of the above is possible, if the trouble cannot be fixed, or if the train has more than one conductor, passengers must leave the train at the next station and the Desk Trainmaster must be told.

DOOR PROBLEMS

(d) A train must stop if:

1. both the motorman and the conductor lose indication, or
2. the train starts with a side door open, or
3. a side door opens when the train is moving, or
4. a guard light stays lit when doors are closed, in a station.

The crew must try to find and fix the door or doors causing the trouble if this can be done WITHOUT DELAY TO THE FOLLOWING TRAINS.

If any door cannot be closed and locked, the conductor must change his position to guard the door, or move passengers into the next car and close off the bad car. Passengers must leave the train at the next station unless the trouble can be fixed or unless the number of passengers is small enough so that they can all be moved easily and quickly into the good part of the train. and the bad part closed off. The Desk Trainmaster must be told of any delay or problem or whenever passengers must leave the train.

AIR BRAKE TROUBLES
WHEN CUTTING OUT BRAKES

Rule 40.

(a) An employee who cuts out air brakes on a car must also cut out the motors and tag or cap the brake valves

at each end of the car. The train must not go ahead until the conductor and the motorman have been told. The yardmaster, terminal dispatcher and road car inspector must be told as soon as possible.

BRAKES CUT OUT ON PASSENGER TRAINS

(b) If the brakes are cut out or angle cocks are closed on a train carrying passengers, the motorman must make a running test of the brakes. If the test shows that the train does not have enough braking power to safely carry passengers, the crew must call the Desk Trainmaster, and passengers must get off at the next station. A train with the brakes cut out on more than one third (⅓) of its cars must not continue to carry passengers.

BRAKES CUT OUT AT TERMINAL

(c) A train carrying passengers must NOT leave a terminal with the air brakes cut out on any car.

MOVING CARS WITHOUT BRAKES

(d) DO NOT move any car with the air brakes not working unless two (2) cars with working brakes are coupled to each car with bad brakes. In such case, the handbrakes on the cars with air brakes not working must be tested before moving. If the handbrakes do not work, the cars must not be moved except under supervision.

WHEN NOT TO RUN TRAIN FROM FRONT CAB

(e) A motorman must not run a train from the front cab when:

1. brake pipe or straight air angle cocks have been closed in the front half of the train, or
2. main reservoir angle cocks have been closed, if this results in too little main reservoir pressure.

BRAKES CUT OUT ON END CAR

(f) If the brakes have to be cut out on an end car once a train has left a terminal, an employee who knows how and when to apply handbrakes must stay in that car. Passengers must get off at the next station and the Desk Trainmaster must be told.

BRAKES IN EMERGENCY

(g) If the brakes of a train apply in emergency and the motorman does not know why, he must secure his train and inspect both sides of the roadway, if possible, as well as behind the train, to try to find the cause.

DEFECTS OR UNUSUAL CONDITIONS ON THE ROAD

Rule 41.

(a) Anything wrong with the structure, tracks, signals or other equipment, or any unusual conditions that would delay or make unsafe the movement of trains, must be reported at once to the Desk Trainmaster.

ON THE TRAIN

(b) Motormen and conductors must report as soon as possible anything wrong with a passenger train that would delay service. When the train arrives at the terminal, all defects in the train known to the crew must be reported on the car defect sheet, and to the train dispatcher, yardmaster and car inspector.

WORK ON OR NEAR TRACKS

(c) The Desk Trainmaster must be told of work to be done that will delay trains or make it unsafe for them to pass.

EMERGENCY BRAKE VALVE

Rule 42.

Each car has an EMERGENCY BRAKE VALVE which, when opened, will stop the train no matter what the motorman does.

KNOW HOW TO USE

(a) Every employee whose work has anything to do with the running of trains must know how and when to use the various types of emergency brake valves.

WHEN TO RESET

(b) When used, the emergency brake valve must be left open until the train stops and until the reason the valve was opened is known and has been corrected. The valve should be closed by hand before two long buzzer signals are passed to the motorman telling him to go ahead. A report must be made to the Desk Trainmaster when the train arrives at the terminal.

PASSENGERS LEAVING TRAINS IN EMERGENCY

PERMISSION NEEDED

Rule 43.

(a) When a train stops between stations, employees must not allow passengers to leave the train without permission from the Desk Trainmaster unless it is unsafe to keep persons in the cars.

IF PASSENGERS LEAVE TRAIN WITH PERMISSION

(b) Before passengers are allowed to leave the train between stations, the emergency brake valve must first be opened and the motorman told. The train must be secured by applying hand brakes. Employees helping passengers to leave shall follow the instructions of the Desk Trainmaster who must make sure everything is done to protect passengers. Employees must remember that there are 600 volts of power in the contact (third) rail and that it is dangerous for passengers to walk on the tracks or in the tunnels. Everything possible must be done to prevent an accident.

IF PASSENGERS LEAVE TRAIN WITHOUT PERMISSION

(c) If passengers leave the train without permission, power must be removed by pulling the lever in the emer-

gency alarm box at the nearest blue light or station. Trains on other tracks must be flagged to a stop, and the Desk Trainmaster must be told.

WALKING PASSENGERS THROUGH TRAINS

(d) When stopped between stations, motormen, if told by the Desk Trainmaster, will pull trains up to each other so that passengers can walk through the trains to a station platform. The emergency brake valve must be opened on the rear end of the last car of the train ahead, and the crew of that train told. When trains are ready to move again, the crews must know it is safe to do so and all emergency valves must be closed.

EMPLOYEES GOING BETWEEN OR UNDER CARS BEFORE GOING DOWN

Rule 44.

(a) Before going down between or under cars, an employee must first open an emergency brake valve and tell the motorman IN PERSON. The motorman must secure the train and go with the employee to the car he will be working on.

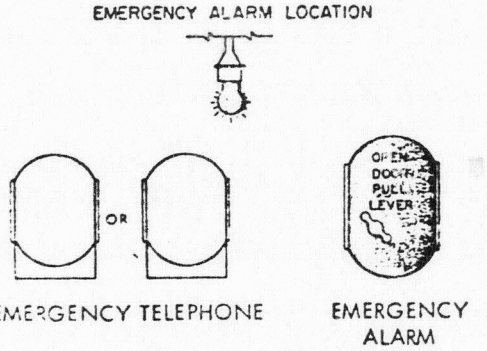
MOTORMAN MUST NOT START TRAIN

(b) After the motorman has been told not to start, he must not start the train until he has been told IN PERSON that it is safe to start BY THE ONE WHO TOLD HIM TO WAIT. The motorman must then make sure the brakes are fully released and receive two long buzzer signals from the conductor before going ahead.

POWER FAILURE OR REMOVAL TO REMOVE POWER

Rule 45.

(a) If power must be cut off the contact (third) rail, employees must:



1. pull down the lever in the emergency alarm box at the nearest blue light or station.
2. call the Desk Trainmaster, using the phone at the emergency alarm box.

   If it is not important to cut power off at once, or if there is no emergency alarm box, call the Desk Trainmaster by radio, if possible, or the nearest phone.
3. help to clear the condition.
4. use great care to prevent injuries or damage and tell the Desk Trainmaster when to restore power.

TO RESTORE POWER

(b) Only the employee who has requested that power be removed may call to have power restored, unless a supervisor of Rapid Transit is on the scene and assumes responsibility.

IF POWER GOES OFF

(c) If power goes off while a train is moving, the train should be allowed to coast to a stop in or opposite the next station, or to an emergency exit between stations, if possible. The motorman, while coasting, must watch out for persons on the tracks and must stop immediately if he sees anyone.

REMOVE POWER BEFORE WORKING

(d) In general, before any work is done on or near the contact (third) rail, power must be removed and the Desk Trainmaster told.

BREAKING APART OF TRAINS

Rule 46.

(a) If a train breaks apart, the crew must try to recouple and move as quickly as possible. If they cannot recouple, both sections must be secured against rolling. The crew must then arrange for the following train to couple to the rear part of the train that has broken apart. Then the first motorman must run the first part of the train, and the second motorman the second part. The second motorman must run his part of the train from its front end if there is enough motor power and braking power to control the train.

PUSHING A TRAIN THAT CANNOT MOVE UNDER ITS OWN POWER COUPLE TO TRAIN BEHIND

Rule 47.

(a) When a train cannot move under its own power, the train must be secured and the Desk Trainmaster told. The following train may couple to it if both have the same type of coupler. However, THE ELECTRIC LINE MUST NOT BE CONNECTED.

WHEN TO COUPLE MECHANICALLY ONLY

(b) If the two trains have different types of air brakes, or if the air brakes do not work, the trains must couple MECHANICALLY only. No air or electric coupling may be made.

BEFORE MOVING

(c) A motorman instructor, trainmaster, or other supervisor sent by the Desk Trainmaster must be on the train. He must not permit the train to move until the motorman, and road car inspector, if any, have made sure BY TEST that there is enough braking power.

WHEN MOVING

(d) The motorman on the front end of the train being pushed will work the brakes. The motorman in the rear section will work the controller. Both motormen must clearly understand the signals to be used between them. An employee chosen by the supervisor must be in the rear cab of the first train to relay signals between the motormen. The train must be moved with RESTRICTED SPEED AND EXTREME CAUTION. All passengers must leave at the next station. The train must then be moved to the nearest yard or siding unless the crew is told to take it somewhere else.

COUPLING AND UNCOUPLING CARS

STOP BEFORE MOVING UP TO CAR

Rule 48.

(a) In moving to couple, a motorman must stop at least two (2) car lengths, then fifty (50) feet and ten (10) feet from the standing car, then move slowly with caution. In bad weather, the first stop should be at least three (3) car lengths away.

BEFORE COUPLING

(b) An employee must not try to couple cars until he is sure all parts of the coupler will fit, and that they are in good working order and in proper position. This includes the electric and air connections. The brakes must be set on the standing cars. The headlights on the standing cars must be turned off at the point of coupling.

DIRECTION OF COUPLING

(c) The smaller number of cars must be coupled to the larger, except on a grade, when all movements must be made upgrade.

BRAKES MUST APPLY AUTOMATICALLY

(d) The motorman must be sure that the brakes apply in emergency by themselves when a coupling is made.

BEFORE UNCOUPLING

(e) The signal to uncouple cars must not be given until all chains, gates, air lines, electrical and mechanical connections have been separated. THE MECHANICAL CONNECTIONS MUST BE OPENED LAST.

SAFETY OF PERSONS NEAR CARS

(f) Before moving a car to couple or uncouple a motorman must be sure that all employees on or near the cars are in safe positions. Anyone on the tracks must give the proper signal to go by moving the hand, light

or flag up and down. When uncoupling and moving backwards, the car must not be moved more than one foot in reverse.

WHEN NOT IN FRONT CAB

(g) When coupling or uncoupling from other than the front cab, a motorman must NOT accept any signal to move except a proper signal to go from the employee who is helping him.

DESTINATION AND ROUTE SIGNS, DOORS, WINDOWS, HEATERS, FANS AND VENTS: MOTORMEN'S CABS

SET AS SHOWN AT TERMINALS

Rule 49.

(a) Heaters, fans, doors, windows and vents must be set as shown in orders posted at terminals.

WHO MUST SET

(b) Side and end roll signs, heater and fan switches, doors, windows and vents must all be properly set by motormen and conductors preparing trains for service. Heat and fan switches on trains in service must be properly set by the conductor of the train.

DOORS BETWEEN CARS AND END DOORS

(c) Doors between cars must be kept closed as much as possible. The end door of the front and rear cars of a train must be kept closed and locked, except when changing tail lights or in emergencies. Conductors must, whenever possible, keep end doors closed at their operating positions, except in hot weather as instructed.

CAB DOORS

(d) Motormen must keep their cab doors closed unless the cab is too hot or too cold. In such case, cab doors may be kept slightly open, but no more than four (4) inches.

CABS NOT IN USE

(e) The doors and windows of all cabs not in use must be kept closed and locked at all times. Conductors must not ride in the cabs at their operating positions between stations, unless the train is too crowded.

MAIN KNIFE SWITCH

Rule 50.

The main knife switch is near the side of the car under the car body. When it is opened, power is cut off that car.

(a) Before opening the main knife switch:

1. Cut out all switches in both cabs of the car.
2. Put the special wooden paddles between the contact shoes of that car and the third (3rd) rail.
3. Grasp the handle, look aside and quickly pull the switch straight out.

POOR VISION AND SLIPPERY RAILS

POOR VISION

Rule 51.

(a) When a motorman cannot see well because of snow, ice, rain or fog he must not try to keep his schedule but must run his train slow enough so that he can stop within the distance he can see.

SUDDEN CHANGES IN WEATHER

(b) If the weather changes suddenly and it is hard to see the way, dispatchers, yardmasters or towermen must tell the Desk Trainmaster immediately.

WORK TRAINS

(c) Work trains may not leave yards or terminals when there is fog unless the Desk Trainmaster permits them to do so.

WORK GANGS

(d) The supervisor of a gang working where there is fog is responsible for the safety of his workers.

SLIPPERY RAILS

(e) If tracks are slippery or weather is bad, trains must move with RESTRICTED SPEED AND EXTREME CAUTION; stop at least three (3) car lengths, then fifty (50) feet and ten (10) feet from shop doors, standing cars or bumping blocks; and sound a series of blasts on the horn or whistle before moving.

SMOKE, FIRE, FLOOD OR ACCIDENT MUST BE REPORTED

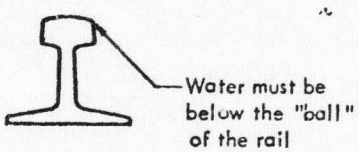
Rule 52.

(a) Any employee who sees smoke, fire, flood or an accident on the system must immediately report this to his control office and the Desk Trainmaster. Employees near such trouble spots must offer whatever help they can.

FLOODS

(b) Trains may run on flooded tracks if the water is below the ball of the running rail but only if the Desk Trainmaster gives permission.

They must run with RESTRICTED SPEED AND EXTREME CAUTION.



SMOKE AHEAD

(c) If, in the subway, a motorman sees smoke ahead, he must stop the train and call the Desk Trainmaster by radio. If he has no radio, he must use the emergency telephone at the nearest blue light; if it is safe to do so, he may move the train to the telephone. UNDER NO CONDITION MAY A TRAIN ENTER A RIVER TUBE FROM WHICH SMOKE IS COMING.

TRAIN IN SMOKE

(d) If told to go through or if finding himself in heavy smoke, a motorman must try to get his train out of the area unless he believes it unsafe to do so. The motorman must shut off AIR CONDITIONING, if any, as instructed.

EVACUATING PASSENGERS IN SMOKE

(e) If passengers must be evacuated because of smoke, they should be led to the nearest station or emergency exit, unless this would take them into a smoke-filled area. If the nearest exit or station is in a smoke-filled area, the passengers should be led to a station or emergency exit away from the area with smoke.

HANDBRAKES

PARKING OR LEAVING A TRAIN

Rule 53.

(a) A motorman must apply the air brakes in emergency and apply enough handbrakes to keep the train from rolling when:

1. he places a car or train on a siding, yard track or storage track, or
2. he must stop his train on the road and leave the cab, even in a station.

POWER OFF

(b) If a motorman is told power will be off for 30 minutes or more, and his train is stopped in the power off area, he must apply handbrakes on at least half the cars of the train, but on not less than two (2) cars at each end of the train.

ACCIDENTS: WORK TRAINS

(c) Handbrakes must be applied on all cars of trains in, or stopped near, accidents or derailments, and on diesel or electric locomotives and work trains stopped for 30 minutes or longer.

TEST FOR HANDBRAKES

(d) Whenever handbrakes are applied this test must be made to make sure they will work:

1. Put air brakes in emergency.
2. Apply handbrakes.
3. Recharge air brake system and release air brakes.
4. Apply one point of power or a minimum of power on diesel locomotives.
5. If train does not move, enough handbrakes have been applied.
6. Put air brakes in emergency.

Exhibit 58

EMERGENCY STOP

(e) If the train has been stopped by emergency brake and the motorman cannot recharge the brake system, he must apply enough handbrakes to keep the train from rolling. On R9's and below, the motorman must place his brakes in "release" and from R10's up, must place his brake valve in "full service" position before leaving his train, to check the trouble. The Desk Trainmaster must be told that this has happened.

WHICH END OF TRAIN

(f) On a grade, handbrakes must be applied on the downgrade end of the train and the test made at that end.

On level tracks, handbrakes must be applied on the end of the train that will be the front end when the train is moved.

CARS WITHOUT MOTORS

(g) Flats, hoppers and other cars without motor power must be left, if possible, on level track and away from switches. They must have handbrakes fully applied; and must have enough chocks or wheel stops placed under the wheels to keep them from moving. A red light or lights must be put on the open end(s) of the car(s).

CHECK FOR HANDBRAKES BEFORE MOVING

(h) HANDBRAKES MUST NOT BE RELEASED UNTIL THE AIR BRAKE SYSTEM HAS BEEN FULLY CHARGED AND THE BRAKES APPLIED IN EMERGENCY. When starting a train that has been stopped on the road, or when taking over a train on a lay-up track, or at a terminal, the motorman must make:

1. a standing brake test, and
2. a rolling brake test as instructed.

The motorman must KNOW that all handbrakes have been fully released before going ahead.

MOTORMAN NOT PRESENT

(i) If the motorman is not present or unable to secure the train, the conductor must apply the handbrakes.

CHAPTER 3

DEFINITIONS, INFORMATION AND RULES RELATIVE TO SIGNALING

HAND, FLAG AND LIGHT SIGNALS

Rule 54.

(a) Moving the hand, flag, light or any other object to and fro across the track means, "STOP". (See Fig. 1) A flag or light of any color placed on the track between the rails means, "STOP".

(b) Moving the hand, flag or light up and down means, "PROCEED". (See Fig. 2) A red flag or red light must never be used to give the proceed signal.

(c) Holding the hand or a white light away from the body in a steady position means, "Reduce speed of train to not more than ten (10) miles per hour, be prepared to stop." (See Fig. 3)

(d) A white lamp and a red lamp must be kept ready for immediate use at all Dispatchers' Offices and interlocking towers in the subway at all times, on elevated or surface structures from sunset to sunrise and whenever day signals (flags or hand) cannot be plainly seen.

(e) When giving signals from a leading flat car of a work train, flagmen must use white lights during hours of darkness and at all times in the subway. From sunrise to sunset on elevated or surface structures hand signals will be used. Whenever such hand signals cannot be plainly seen, white lights must be used.

(f) Motormen must not accept proceed hand signals from persons other than those designated by the Assistant General Superintendent, Rapid Transit Transportation, to give such signals and whose identity as such is known to them.

A white light must be displayed on the front and rear end of all collection trains while en route.

Unnecessary waving of the hands by employees on or near the trainways is absolutely forbidden.

SIGNAL COLORS

Rule 55.

Signal colors mean as follows:

(a) Red (including flashing lights) .....STOP

(b) Yellow (including flashing lights) PROCEED WITH CAUTION

(c) Green .....PROCEED

(d) Blue .....Indicates the location of an emergency alarm box, telephone and fire extinguisher. (See Fig. 69

(e) Lunar White .....Indicates that the fixed signal on which it is displayed may be cleared by train operating at a predetermined speed. (See Fig. 39) It is also used as set forth in Rule 63. (a) (See Fig. 42)

(f) Amber (Orange) ..Train starting or holding signal (See Fig. 68)

EMERGENCY WHISTLE OR HORN SIGNALS

Rule 56.

Emergency whistle or horn signals at certain interlockings and other designated points are as follows:

NOTE: Signals prescribed are listed "o" for short sounds and "——" for longer sounds.

Sound	*Indication*
(a) ——	All trains in the interlocking limits come to an immediate stop
(b) o o	Trains in the interlocking limits proceed
(c) o o o	Road car inspector contact tower
(d) ——o	Signal maintainer contact tower

TRAIN WHISTLE OR HORN SIGNALS

Rule 57.

Train whistle or horn signals are as follows:

NOTE: Signals prescribed are listed "o" for short sounds and "——" for longer sounds. The sound should be distinct, with intensity and duration proportionate to the distance the signal is to be conveyed.

Sound	*Indication*
(a) ——	Apply brakes instantly—STOP
(b) —— ——	Sounded when passing caution lights or flags to warn flagman of approach of train
(c) —— —— o o	Train has run by or stopped short of station platform
(d) o o	An answer to any signal
(e) o o o	Train needs road car inspector
(f) —— o	Signal maintainer respond to train
(g) ——o——o	Train crew needs assistance
(h) o o o o	Train request to towerman or switchman for route or signal
(i) Succession of short sounds	An alarm to persons on or near the track, on station platform, or when train is making irregular movement at or through stations

(j) Unnecessary sounding of the whistle or horn is forbidden.

TRAIN BUZZER SIGNALS

Rule 58.

Train buzzer signals are as follows:

NOTE: Signals prescribed are listed "o" for short sounds and "——" for longer sounds.

Sound	*Indication*
(a) ——	STOP
(b) —— ——	PROCEED
(c) —— ——o o	Train has run by or stopped short of station platform
(d) o o	An answer to any signal
(e) o o o	Signal for motorman to sound train whistle or horn for road car inspector

(f) —— o —— o Signal for motorman to sound train whistle or horn for assistance

(g) These same signals must be used by a conductor when stationed on the front end of a train by reason of motorman's operating from some other car.

(h) When the motorman or conductor gives one of the above signals it must be acknowledged by Signal "o o"

(i) Unnecessary sounding of buzzers is forbidden

FIXED SIGNALS

Rule 59.

(a) A fixed signal is a signal of fixed location indicating a condition governing the movements of a train.

(b) Fixed signals are divided as to the occasion for their use into three main divisions or classes:

Interlocking signals, which govern the movement of trains through interlockings;

Automatic signals, which govern the movement of trains running in the established direction of traffic on main tracks, and

Miscellaneous signals, which give information of various kinds for the government of the operation of trains.

(c) Fixed signals are of two main types:

Light signals, which give their indications, both by day and by night, by lights of prescribed colors;

Miscellaneous signals, which give their indications by signs of prescribed forms or lights of prescribed colors, or both.

(d) When practicable, fixed signals are located either over or upon the right hand side of the track to which they refer.

(e) FIXED SIGNALS DO NOT DISPENSE WITH THE USE OR OBSERVANCE OF OTHER SIGNALS WHENEVER AND WHEREVER THEY MAY BE REQUIRED.

(f) A SIGNAL ASPECT	The position, form and color of a signal
(g) A SIGNAL INDICATION	The information conveyed by a signal aspect
(h) A STOP SIGNAL (RED)	A signal indicating STOP
(i) A CAUTION SIGNAL (YELLOW)	A signal indicating proceed, prepare to stop at next signal
(j) A CLEAR SIGNAL (GREEN)	A signal indicating proceed or continue

AUTOMATIC SIGNALS

Rule 60.

(a) AUTOMATIC SIGNAL	A fixed signal at the entrance to a block to govern trains entering and using that block (See Figs. 33-40, incl.)
(b) BLOCK	A length of track of defined limits, the use of which is governed by an interlocking or automatic signal

Exhibit 58

INTERLOCKING

Rule 61.

(a) INTERLOCKING	An arrangement of signals and switch appliances so interconnected that their movements must succeed each other in proper sequence and for which interlocking rules are in effect. It may be operated manually or automatically.
(b) INTERLOCKING TOWER OR CONTROL POINT	Place from which an interlocking is operated
(c) INTERLOCKING MACHINE	An assemblage of manually operated levers or equivalent devices for the control of signals, switches or other units, including mechanical or circuit locking, or both, to establish a proper sequence of movements
(d) CONTROL MACHINE	An assemblage of manually operated levers or other devices for the control of signals, switches or other units, without mechanical interlocking, usually including a track diagram with indication lights
(e) LEVER OR CIRCUIT TIME RELEASE	A device used in connection with a lever, push button or circuit to delay, for a predetermined time, the release of that lever, push button or circuit
(f) INTERLOCKING SIGNAL	A fixed signal of an interlocking
(g) HOME SIGNAL	An interlocking signal at the entrance to a route or block to govern trains entering and using said route or block (See Figs. 4-28, incl.)
(h) DWARF SIGNAL	A low home signal used for slow speed movements only (See Figs. 29-31, incl.)
(i) MARKER SIGNAL	A signal with a fixed stop indication used to define the limits of train movements; it is an absolute stop and stay signal. (See Figs. 32 and 32a)
(j) APPROACH SIGNAL	An interlocking signal used in connection with a home signal governing the approach thereto (See Figs. 33-38, incl.)
(k) CALL-ON SIGNAL	A home signal indication used either to permit a train to pass the signal when it indicates STOP or to enforce a slow speed movement (See Fig. 11)

(l) YARD INDICATION SIGNAL	A home signal indication used in place of a call-on signal to permit a slow speed movement past the signal, without the necessity of stopping the train at the signal (See Fig. 10)

TIME CONTROLLED SIGNALS

Rule 62.

(a) TIME CONTROLLED SIGNAL	A fixed signal having a time element in its control which requires the passage of time for a change in aspect
(b) GRADE TIME CONTROL OF SIGNALS	Is intended to cause a train to run through grade time territory at a predetermined speed. Trains exceeding such speed are automatically stopped.
(c) STATION TIME CONTROL OF SIGNALS	Is intended to permit a train to close in on a preceding train standing in or moving out of a station, provided the speed of the following train is reduced to that necessary for safe braking at each respective signal
(d) TIME CONTROL (T) SIGN	A fixed signal bearing the letter (T) (See Fig.51) located at the point of entrance to time controlled territory
(e) GRADE TIME (GT) SIGNAL	A fixed signal used to enforce a predetermined speed on descending grades or at other locations; this signal is always preceded by a Time Control (T) sign (See Fig 51) and a sign designating the allowable speed in miles per hour (See Figs. 52 and 52a) or by a GT sign (See Fig. 53)
(f) S SIGNAL	A fixed signal bearing the letter S. The S, when illuminated together with a caution indication, indicates that the grade time signal immediately in advance is displaying a STOP indication which may be cleared by a train approaching said S signal at a predetermined speed. (See Figs. 7, 9, 15, 19 and 37)
(g) D SIGNAL	A fixed signal bearing the letter D. The D, when illuminated together with a caution indication, indicates a diverging route and that the grade time signal immediately in advance is displaying a STOP indication which may

	be cleared by a train approaching said D signal at a predetermined speed. (See Fig. 38)
(h) LUNAR WHITE SIGNAL	A fixed signal bearing a lunar white aspect. The lunar white aspect, when illuminated together with a STOP indication, indicates that the signal may be cleared by a train approaching said signal at a predetermined speed. (See Fig. 39)
(i) STATION TIME (ST) SIGNAL	A fixed signal used at certain locations to permit a train to close in on a preceding train standing in or moving out of a station; this signal is always preceded by a Time Control (T) sign (See Fig. 51) or by an (ST) sign. (See Fig. 54)
(j) STATION TIME INDICATOR	A fixed signal used at certain locations, bearing as a speed indicator, a number representing miles per hour. The number, when illuminated together with a RED aspect, indicates that the signal may be cleared by a train approaching said signal at the designated speed. (See Fig. 40). This signal is used to permit a train to close in on a preceding train standing in or moving out of a station and is always preceded by an (ST) sign. (See Fig. 54)

MISCELLANEOUS LIGHT SIGNALS

Rule 63.

(a) TRAIN ORDER SIGNAL	A fixed signal located near the entrance to river tubes or bridges, at stations where gap fillers (movable platforms) are in operation and at certain other places, either automatically or manually controlled from a designated point. When two horizontal red lights are displayed by this signal, it is a stop and stay signal and also an indication to motormen to call the designated authority for orders. (See Fig. 41) When two horizontal lunar white lights are displayed by this signal, it is an indication to motormen to proceed without orders, in accordance with related fixed signals. (See Fig. 42)

(b) ROUTE REQUEST BUTTON	A device used in conjunction with certain home signals to permit motormen to indicate to towermen operating such signals the local or express routes scheduled for their trains. This device consists of two (2) buttons, one marked "LOCAL" the other "EXPRESS", with an indicating light immediately above each button. When either button is properly operated the light above it will illuminate. (See Fig. 71a)
(c) ROUTE REQUEST TELEPHONE	A telephone used in conjunction with certain home signals to permit motormen to speak directly to the towermen operating said signals. The box in which the telephone is contained is equipped with an exterior white light which, when lighted, is an indication to motormen to use said phone to communicate with said tower. Inside said box is a button to be used to signal said towerman that a motorman wishes to communicate with him. (See Fig. 71b)
(d) TRAIN IDENTITY SIGNAL	A device used in conjunction with certain home signals to permit motormen to indicate to towermen operating said signals the identity of their trains by operating the correct button on this device, A light immediately above such button will illuminate when the button is properly operated. If after the operation of a train identity signal a train arrives at the home signal which is displaying an incorrect route or a STOP aspect, the train identity signal at such home signal must, in addition, be properly operated. (See Fig. 71c)
(e) BUMPER LIGHT	A fixed signal to define the limits of train movements at the end of a track. It is an absolute stop and stay signal. A fixed stop is used in connection herewith (See Figs. 43 and 44)
(f) SWITCH TARGET	A fixed signal connected to or working with a hand operated switch to indicate the position of the switch (See Figs. 45-47, incl.)

(g) GAP FILLER SIGNAL	A fixed signal, located a short distance beyond a 10-car station car stop sign, which displays a red aspect when the gap fillers are not sufficiently withdrawn to clear the sides of cars. (See Fig. 48) It is a stop and stay signal. When the gap fillers are sufficiently withdrawn, the red aspect is replaced by an illuminated sign bearing the letters GF and the track designation. (See Fig. 49)
(h) REPEATER SIGNAL	A fixed signal used to repeat the indications of another fixed signal. It is located on the opposite side of the track from the signal which it repeats, in such a position as to be more clearly seen from an approaching train. It is of the same type and gives its indications in the same manner as the signal whose indications it repeats. It has no automatic stop. (See Figs. 50 and 50a)
(i) TRAIN STARTING OR HOLDING SIGNAL	A fixed signal used as a starting signal at terminal stations and as a holding signal at intermediate stations to indicate to conductors when to close or keep open train doors. (See Fig. 68) At any station designated as a terminal this is a starting signal for such trains as start from such station: conductors must not close train doors until the signal is illuminated. At all other stations and for all other trains this is a holding signal: conductors must keep open train doors while this signal is illuminated.
(j) CONDUCTOR'S GAP FILLER INDICATOR SIGNAL	A fixed signal used in connection with gap fillers, located on station platforms at the operating positions of conductors of trains of various lengths, to indicate, when illuminated, the number of cars the doors of which may be safely opened. (See Fig. 71) Conductors must NOT open doors until this signal is properly illuminated.

AUTOMATIC STOP

Rule 64.

(a) AUTOMATIC STOP	A device used in connection with a fixed signal to apply

	the brakes of a train passing that signal when it indicates STOP
(b) AUTOMATIC STOP ARM	The part of an automatic stop which engages a device on a car to apply the brakes. It is located outside the running rails
(c) AUTOMATIC STOP MANUAL RELEASE	A device used in connection with a signal to cause the automatic stop arm to assume the clear position, when the signal indicates STOP. The release consists of a small lever or button usually located on or near the signal. This device is used in connection with a call-on signal, after the call-on indication has been displayed. (See Fig. 11) At an automatic or approach signal designated by the letter K under the signal number, (See Fig. 36) motormen must operate the lever or button or use a triangular key to clear the automatic stop.
(d) AUTOMATIC STOP AUTOMATIC RELEASE	The automatic lowering of the stop arm by a train properly stopping at an automatic or approach signal. (See Fig. 35)
(e) AUTOMATIC STOP HOOK	A device used in connection with an automatic stop to fasten the automatic stop arm in the clear position
(f) FIXED STOP	A stop arm installed at a fixed location in the tripping position (See Figs. 43 and 44.)

MISCELLANEOUS SIGN SIGNALS

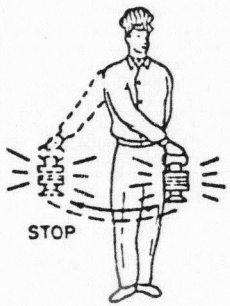
ıle 65.

(a) SLOW SIGN	A fixed signal located at the entrance to a section of track on which trains are required to run at a reduced speed; it indicates the maximum speed at which trains may be operated on said section of track. (See Figs. 52, 52a, and 57)
(b) RESUME SPEED SIGN	A fixed signal located at the point where a train of indicated length, which has been running at a reduced speed, may resume normal speed. (See Fig. 55)
(c) DIVERGING ROUTE SIGN	A fixed signal which indicates the allowable speed on a diverging route when such

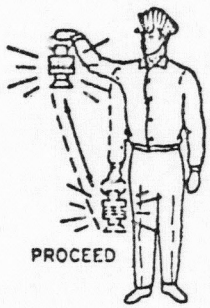
	speed is greater or less than the 10 mile per hour limit prescribed by the rules. It is a sign bearing the letter D and numerals designating the allowable speed. (See Fig. 56)
(d) STATION CAR STOP SIGN	A fixed signal, in or just beyond, station platform limits to designate where a scheduled train of indicated length and type must stop. (See Figs. 58-60 incl.)
(e) REVERSE MOVEMENT CAR STOP SIGN	A fixed signal in, or just beyond, an interlocking to indicate where a train of indicated length must stop to clear the proper switches and signals for a movement in the direction opposite to that in which the train has been traveling. (See Fig. 61)
(f) GAP FILLER SIGN	A fixed signal located near the 10-car station car stop sign reading "SLOW UNTIL GAP FILLER SIGNAL CLEARS" (See Fig. 62)
(g) END OF SIGNAL CONTROL SIGN	A fixed signal located at an end of a signal control system. (See Fig. 63)
(h) STOP SIGN	A fixed signal, bearing the letters STOP, located at the entrance to shops, at crosswalks in yards and in certain other areas; motormen must stop and then proceed in accordance with special instructions. (See Fig. 64)
(i) EMPLOYEE LOADING PLATFORM (P) SIGN	A fixed signal, bearing the letter P, located immediately in advance of the platform to designate where a train must stop when signalled to do so, so that the first door of the first car of said train is abreast of said platform. (See Fig. 65)
(j) STATION PLATFORM TELEPHONE (T) SIGN	A fixed signal, bearing the letter T, located on a station platform to indicate the location of a System telephone. (See Fig. 66)
(k) NO CLEARANCE SIGN	A fixed signal located on trainways and at ends of platforms leading to trainways indicating an area where there is insufficient space between the sides of cars and structures abutting on trainways to permit a person safely to pass or stand (See Fig. 67); employees are forbidden to enter upon these areas

	without proper flagging protection.
(l) CONDUCTOR'S INDICATION BOARD	A fixed signal located on a station platform indicating to the conductor of a maximum length train, defined in rule 36 (n), that all doors of the train are abreast of said platform. (See Fig. 70) On the BMT Division and on the IND Division, in areas where BMT Division cars are operated, an additional board is provided for 6, 7 and 8 car trains consisting of AB type cars. (See Fig. 70A) Conductors of maximum length trains and of 6, 7 and 8 car AB type trains must not open train doors unless their operating position is opposite the applicable board.
(m) SERIES SIGN	A fixed signal, bearing the letters SERIES, located at the entrance to a section of track on which trains are required not to exceed series speed; it indicates that the master controller of a train must not be advanced beyond the series position until the train reaches a resume speed sign. (See Fig. 57)
(n) RAILROAD CROSSING SIGN	A crossbuck sign usually located at railroad-vehicular roadway crossings in yards to denote the presence of crossings and to convey information as to the number of tracks to be crossed. Operators of roadway vehicles must stop, look and listen then proceed when way is clear. (See Fig. 63a)

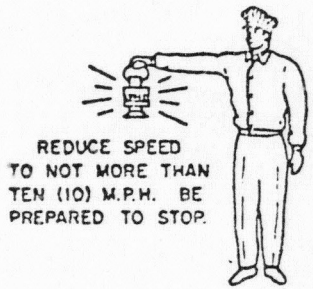
HAND SIGNALS



A MOTION ACROSS
THE TRACK
RULES 54(a), 68(a)
FIG. 1



A MOTION UP AND DOWN
RULES 54(b), 68(d), 68(e), 68(f), 76(c)
FIG. 2



HAND OR WHITE
LIGHT HELD IN
STEADY POSITION
RULE 54(c)
FIG. 3

'OME SIGNALS

PROCEED ON
MAIN ROUTE
RULE 61(g)

FIG. 4

PROCEED ON
DIVERGING ROUTE
RULES 36(g), 61(g)

FIG. 5

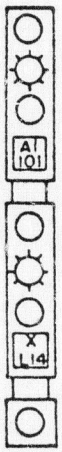
PROCEED ON MAIN ROUTE
PREPARED TO STOP
AT NEXT SIGNAL
RULES 61(g), 106(g)

FIG. 6

APPROACH AT ALLOWABLE SPEED
THEN CONTINUE ON MAIN ROUTE
RULES 61(g), 62(f)

FIG. 7

HOME SIGNALS

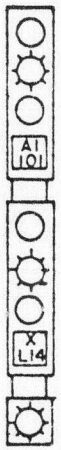


PROCEED
ON DIVERGING ROUTE
PREPARED TO STOP
AT NEXT SIGNAL
RULES 36(g), 61(g), 106(g)

FIG. 8

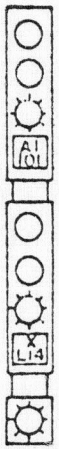
APPROACH AT ALLOWABLE SPEED
THEN PROCEED ON DIVERGING ROUTE
RULES 36(g), 61(g), 62(f)

FIG. 9



PROCEED WITH CAUTION
PREPARED TO STOP
WITHIN VISION EXPECTING
TO FIND TRACK OCCUPIED
RULES 61(g), 61(l)

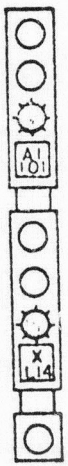
FIG. 10



STOP! OPERATE AUTOMATIC STOP
MANUAL RELEASE THEN PROCEED
WITH CAUTION PREPARED TO STOP
WITHIN VISION, EXPECTING TO FIND
TRACK OCCUPIED, A BROKEN RAIL OR
OTHER OBSTRUCTION IN THE BLOCK
RULES 37(j), 61(g), 61(k), 64(c)

FIG. 11

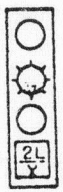
HOME SIGNALS



STOP AND STAY
RULES 37(h), 61(g)

FIG. 12

IRT DIVISION ONLY

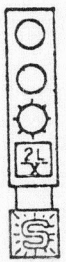


STOP AND STAY
RULES 37(h), 61(g)

FIG. 13

PROCEED ON
MAIN ROUTE
PREPARED TO STOP
AT NEXT SIGNAL
RULES 61(g), 106(g)

FIG. 14



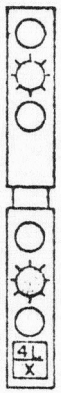
APPROACH AT ALLOWABLE
SPEED THEN CONTINUE ON
MAIN ROUTE
RULES 61(g), 62(f)

FIG. 15

HOME SIGNALS
IRT DIVISION ONLY

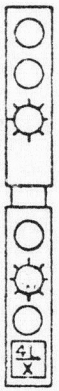
PROCEED ON
MAIN ROUTE
RULE 61(g)

FIG. 16



STOP AND STAY
RULES 37(h), 61(g)

FIG. 17



PROCEED ON
MAIN ROUTE
PREPARED TO STOP
AT NEXT SIGNAL
RULES 61(g), 106(g)

FIG. 18

APPROACH AT ALLOWABLE
SPEED THEN CONTINUE ON
MAIN ROUTE
RULES 61(g), 62(f)

FIG. 19

HOME SIGNALS

IRT DIVISION ONLY

PROCEED ON
MAIN ROUTE
RULE 61(g)

FIG. 20

PROCEED ON
DIVERGING ROUTE
PREPARED TO STOP
AT NEXT SIGNAL
RULES 36(g),61(g),106(g)

FIG. 21

PROCEED ON
DIVERGING ROUTE
RULES 36(g), 61(g)

FIG. 22

STOP AND STAY
RULES 37(h), 61(g)

FIG. 23

HOME SIGNALS
IRT DIVISION ONLY

PROCEED ON MAIN ROUTE PREPARED
TO STOP AT NEXT SIGNAL
RULES 61(g),106(g)

FIG. 24

PROCEED ON
MAIN ROUTE
RULE 61(g)

FIG. 25

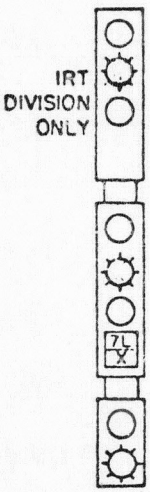
PROCEED ON DIVERGING ROUTE PREPARED
TO STOP AT NEXT SIGNAL
RULES 36(g),61(g),106(g)

FIG. 26

PROCEED ON
DIVERGING ROUTE
RULES 36(g),61(g)

FIG. 27

HOME SIGNALS



PROCEED ON 2ND DIVERGING ROUTE, PREPARED TO STOP AT NEXT SIGNAL
RULES 36(g), 61(g), 106(g)

FIG. 28

STOP AND STAY
RULES 37(h), 61(h)

FIG. 29

DWARF SIGNALS

STOP AND STAY
RULES 37(h), 61(h)

FIG. 30

PROCEED WITH CAUTION, PREPARED TO STOP WITHIN VISION, EXPECTING TO FIND TRACK OCCUPIED
RULE 61(h)

FIG. 31

MARKER SIGNALS

STOP AND STAY
RULE 61(1)

FIG. 32

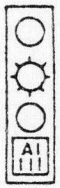
STOP AND STAY
RULE 61(1)

FIG. 32A

APPROACH AND AUTOMATIC SIGNALS

PROCEED
RULES 60(a),61(j)

FIG. 33



PROCEED PREPARED TO
STOP AT NEXT SIGNAL
RULES 60(a), 61(j), 106(g)

FIG. 34

APPROACH AND AUTOMATIC SIGNALS

STOP! OPERATE AUTOMATIC STOP
AUTOMATIC RELEASE THEN PROCEED
WITH CAUTION, PREPARED TO STOP
WITHIN VISION, EXPECTING TO FIND
TRACK OCCUPIED, A BROKEN RAIL OR
OTHER OBSTRUCTION IN THE BLOCK
RULES 37(m), 37(n), 37(p), 60(a), 61(j),
64(d)

FIG. 35

STOP! OPERATE AUTOMATIC STOP
MANUAL RELEASE THEN PROCEED
WITH CAUTION, PREPARED TO STOP
WITHIN VISION, EXPECTING TO FIND
TRACK OCCUPIED, A BROKEN RAIL OR
OTHER OBSTRUCTION IN THE BLOCK
RULES 37(o), 37(p), 64(c)

FIG. 36

APPROACH AT
ALLOWABLE SPEED
RULES 60(a), 61(j), 62(f)

FIG. 37

APPROACH AT ALLOWABLE SPEED,
EXPECTING A DIVERGING ROUTE
AT END OF BLOCK
RULES 60(a), 61(j), 62(g)

FIG. 38

APPROACH & AUTOMATIC SIGNAL

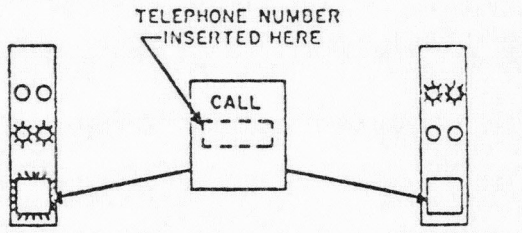
APPROACH
AT ALLOWABLE SPEED
RULES 55(e), 60(a), 61(j), 62(h)

FIG. 39

APPROACH AT ALLOWABLE SPEED
(INDICATED BY ILLUMINATED
NUMBER, HERE 20 MPH)
RULES 60(a), 61(j), 62(j)

FIG. 40

TRAIN ORDER SIGNAL



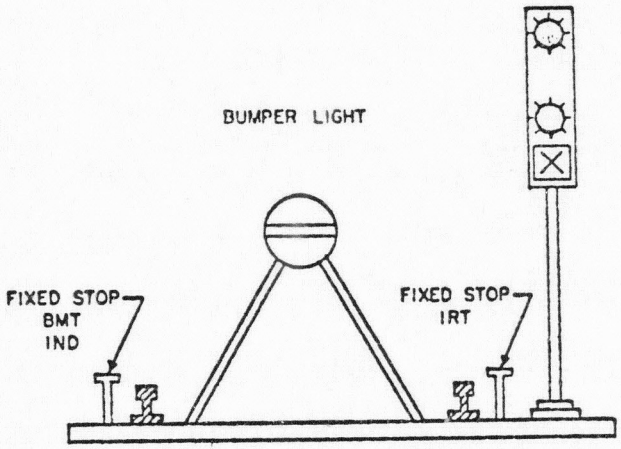
TELEPHONE FOR ORDERS
STOP AND STAY
RULE 63(a)

FIG. 41

NO ORDERS TO
BE RECEIVED
PROCEED
RULES 55(e), 63(a)

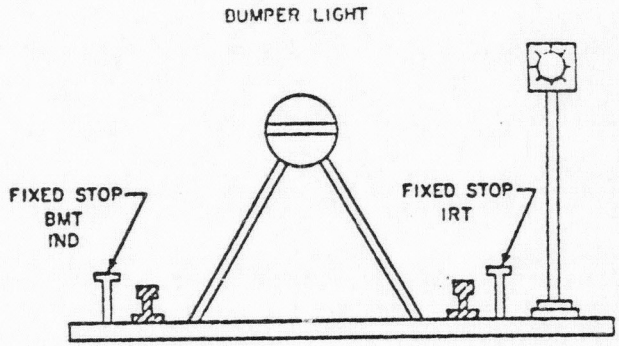
FIG. 42

MISCELLANEOUS LIGHT SIGNALS



MAIN LINE BUMPER
STOP!
RULES 63(e), 64(f)

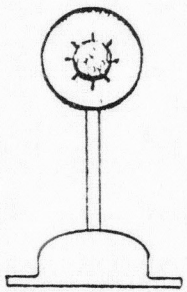
FIG. 43



YARD BUMPER
STOP!
RULES 63(e), 64(f)

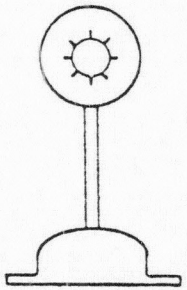
FIG. 44

MISCELLANEOUS LIGHT SIGNALS



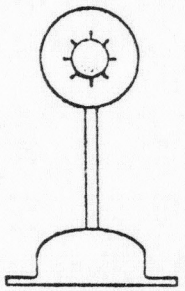
SWITCH SET FOR SAME TRACK AND/OR DERAIL IN NON-DERAILING POSITION PROCEED AT ALLOWABLE SPEED RULES 36(m), 63(f)

FIG. 45



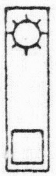
SIDING OR YARD SWITCH SET FOR DIVERGING ROUTE AND/OR DERAIL IN NON-DERAILING POSITION PROCEED AT ALLOWABLE SPEED RULES 36(m), 63(f)

FIG. 46



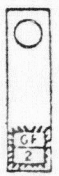
MAIN TRACK SWITCH SET FOR DIVERGING ROUTE AND/OR DERAIL IN DERAILING POSITION STOP RULE 63(f).

FIG. 47



GAP FILLERS OUT STOP & STAY RULE 63(g)

FIG. 48

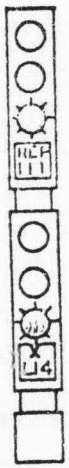


GAP FILLERS IN PROCEED RULE 63(g)

FIG. 49

MISCELLANEOUS LIGHT SIGNALS

REPEATER SIGNALS



NEXT SIGNAL ON CAB SIDE DISPLAYS
SAME INDICATION
RULE 63(h)

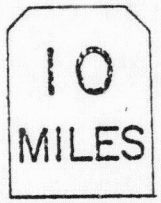
FIG. 50

FIG. 50A

MISCELLANEOUS SIGN SIGNAL

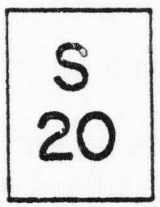
BEGINING OF
TIME CONTROL
RULES 62(d) 62(e), 62(l)

FIG. 51



PROCEED AT SPEED
INDICATED "10" DENOTES
MILES PER HOUR
RULES 62(e), 65(c)

FIG. 52



REDUCE SPEED
"20" DENOTES MILES PER HOUR
IRT ONLY

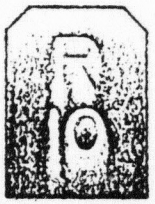
RULES 62(e), 65(e)
FIG. 52A

BEGINNING OF
GRADE TIMING SECTION
"10" DENOTES
MILES PER HOUR

RULE 62(e)
FIG. 53

BEGINNING OF
STATION TIMING SECTION
"10" DENOTES MILES
PER HOUR

RULES 62(i), 62(j)
FIG. 54



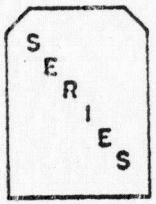
RESUME SPEED
"10" DENOTES
NUMBER OF CARS

RULE 65(b)
FIG. 55

MISCELLANEOUS SIGN SIGNALS

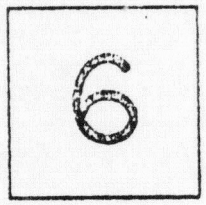
DIVERGING ROUTE
"15" DENOTES
MILES PER HOUR
RULES 36(g), 65(e)

FIG. 56



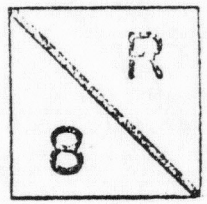
DO NOT EXCEED SERIES SPEED, MASTER
CONTROLLER MUST NOT BE ADVANCED
BEYOND SERIES POSITION
RULE 65(m)

FIG. 57



STATION CAR STOP SIGN
"6" DENOTES
NUMBER OF CARS
RULES 65(d), 106(m)

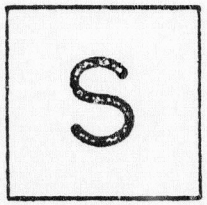
FIG. 58



STATION CAR STOP SIGN
"8" DENOTES NUMBER
OF R-TYPE CARS
RULES 65(d), 106(m)

FIG. 59

MISCELLANEOUS SIGN SIGNALS

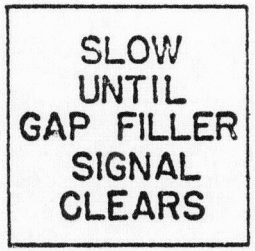


STATION CAR STOP
SIGN FOR ALL TRAINS
EXCEPT R-TYPE
RULES 65(d), 106(m)

FIG 60

REVERSE MOVEMENT CAR STOP
SIGN FOR LOCATIONS OTHER THAN
STATION PLATFORMS
"4" DENOTES NUMBER OF CARS
RULE 65(e)

FIG. 61



GAP FILLER SIGN
LOCATED NEAR THE 10 CAR
STATION CAR STOP SIGN
RULE 65(f)

FIG 62

END OF SIGNAL
CONTROL SIGN
PREPARE TO STOP
WITHIN VISION
RULE 65(g)

FIG. 63

MISCELLANEOUS SIGN SIGNALS

RAILROAD CROSSING SIGN
RULE 65(n)

FIG. 63A

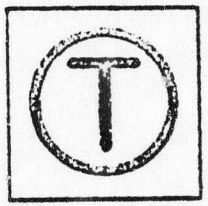
STOP SIGN
RULE 65(h)

FIG. 64

EMPLOYEE LOADING
PLATFORM "P" SIGN
RULE 65(i)

FIG. 65

MISCELLANEOUS SIGN SIGNALS



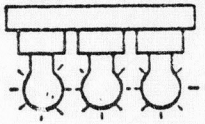
STATION PLATFORM SIGN
FOR STATION WITH SYSTEM
TELEPHONE ON PLATFORM LEVEL
RULE 65(j)

FIG. 66

NO CLEARANCE SIGN
NO CLEARANCE STRIPES
RULE 65(k)

FIG. 67

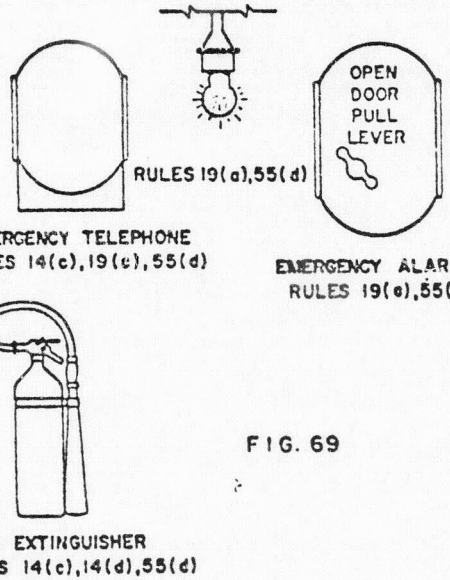
MISCELLANEOUS LIGHT SIGNAL



RULES 55(f), 63(i)

FIG. 68

EMERGENCY ALARM LOCATION



RULES 19(a),55(d)

EMERGENCY TELEPHONE
RULES 14(c),19(c),55(d)

EMERGENCY ALARM
RULES 19(a),55(d)

FIRE EXTINGUISHER
RULES 14(c),14(d),55(d)

FIG. 69

CONDUCTOR'S INDICATION BOARDS

RULES 36(n),65(1)

FIG. 70

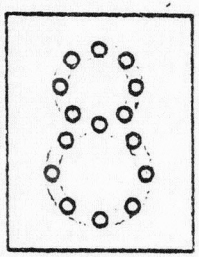
B6-7-8	B6-7-8	B6-7-8

RULE 65(1)

FIG. 70A

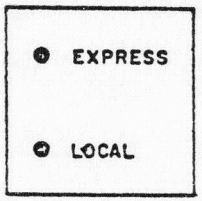
2866a
Exhibit 58

MOTORMAN'S OPERATIONAL SIGNALS



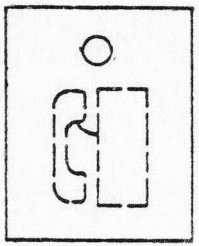
"6" DENOTES
NUMBER OF CARS
RULE 63(j)

FIG. 71



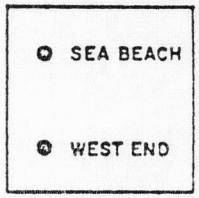
ROUTE REQUEST BUTTONS
RULE 63(b)

FIG. 71A



ROUTE REQUEST TELEPHONE
RULE 63(c)

FIG. 71B



TRAIN IDENTITY BUTTONS
RULE 63(d)

FIG. 71C

Exhibit 58

FLAGGING RULES

RESPONSIBILITIES

Rule 66.

(a) The following rules provide a uniform method and procedure to be used in establishing protection for employees, of the Authority and of others, engaged in work on and adjacent to the tracks and to insure the safe passage of trains where work of any nature may cause interference with the same. They must be complied with without reservation. Any practices in any department in any way inconsistent herewith are hereby prohibited.

These rules do not apply to work such as track-walking, inspection or routine maintenance by individuals, pairs or small groups of employees of the Authority who move from point to point, except where special reference is made to such employees.

(b) When a gang or group is going to work under flagging protection at a given location, the Desk Trainmaster of the division must be notified.

Work on trainways must not be performed on operating tracks between 6:00 A.M. and 9:00 A.M., or between 4:00 P.M. and 7:00 P.M., Mondays to Fridays inclusive. Except in emergencies, caution lights or flags must not be displayed during these hours.

In areas, however, wherein there is no concentration of traffic during the above hours and where, in the opinion of the Rapid Transit Operations Department, work of the Maintenance of Way or Power Departments may conveniently be performed, arrangements may be made between the Rapid Transit representative in charge and the person in charge of the gang which desires to do the work for the display of lights or flags at any hour.

(c) The person in charge of the work to be performed must provide and maintain all flagging protection required to insure the safety of employees and the safe passage of trains.

(d) Until the person in charge knows that proper flagging protection has been established, he must not permit the workmen for whom the protection is intended to go upon or obstruct the track in any way.

(e) The person in charge of the work to be performed must select the flagman, or flagmen, for each assignment from the list of flagmen qualified as such by the Assistant General Superintendent, Rapid Transit Operations.

(f) Employees acting as flagmen must appreciate the great responsibility for life and property which they assume, and, in all cases where there is any question as to what should be done, must take the SAFE course at all times.

(g) Whenever the work to be performed involves employees of two or more sections jointly, the person in charge of performing the major portion of the work must provide and maintain all necessary flagging protection until the employees of all the sections involved have completed their work and are safely off the track with all their equipment and tools. If, for any reason, it becomes necessary for his employees to leave the site of the work before the employees performing the lesser portions have completed their work, the person in charge of the major portion must PERSONALLY so notify the persons in

charge of the other sections and must not remove the established flagging protection until this protection is completely supplanted by the sections that are to remain at the site of the work.

(h) Whenever the work to be performed involves employees of an employer other than the Authority, a designated representative of the Chief Engineer, of the Assistant General Superintendent, Maintenance of Way, or of the Assistant General Superintendent, Power, must provide and maintain flagging protection for such persons in accordance with these rules and with the nature of the work.

(i) When men working in a particular area leave said area temporarily, the red flags or lamps and the portable train stop must be removed.

(j) No person selected as and acting as a flagman may be assigned any duties other than those of a flagman and he must not perform any duties other than those of a flagman while he is so assigned and so acting.

FLAGGING SIGNAL COLORS AND USE THEREOF

Rule 67.

Flagging signal colors mean as follows:

(a) Red (including flashing lights)	STOP
(b) Yellow (including flashing lights)	PROCEED AT A SPEED NOT TO EXCEED TEN (10) MILES PER HOUR, PREPARED TO STOP WITHIN RANGE OF VISION
(c) Green	RESUME NORMAL SPEED
(d) White	TO BE USED BY FLAGMEN AS A PROCEED SIGNAL

(e) Underground: Lighted lanterns of the prescribed color and type must be used.

(f) Out of doors: Flags of the prescribed color, at least 23" x 29" in dimensions, must be used between sunrise and sunset, except that, when flags or hand signals cannot be plainly seen, lighted lanterns in addition to flags must be used. Lighted lanterns of the prescribed color and type must be used between sunset and sunrise.

Lighted lanterns are hereinafter referred to as "lights".

FLAGGING SIGNALS

Rule 68.

(a) Moving the hand or a red light or holding a red flag across the track is the prescribed STOP signal under normal flagging conditions. (See Fig. 1)

(b) In an emergency, the hand or any object waved violently by anyone on or near the track is a signal to stop.

(c) When necessary to signal a train to stop the employee giving such signal must continue to do so until the train has been brought to a stop.

(d) Under normal flagging conditions moving the hand or a white light up and down means proceed SLOWLY. (See Fig. 2) A red flag or a red light must never be used to give a proceed signal.

(e) Under normal flagging conditions moving the hand or a white light up and down SLOWLY is a signal to a motorman to proceed VERY SLOWLY, prepared to stop within range of vision.

(f) Under normal flagging conditions moving a yellow light or flag up and down is a signal to a motorman to proceed VERY SLOWLY, prepared to stop within range of vision, and indicates that there is another flagman beyond.

(g) Whenever fixed signals at or near a flagman's station indicate STOP, the flagman must exercise extreme caution in giving a proceed signal conflicting with such fixed signals.

CAUTION LIGHTS AND FLAGS

Rule 69.

On the track or tracks to be worked upon or obstructed:

(a) Two (2) yellow lights and/or two (2) yellow flags must be displayed at a point NOT LESS THAN 500 feet, nor more than 700 feet, in approach to the point selected as the flagman's station. (See Fig. 72)

(b) When a motorman's view of the above two (2) yellow lights and/or two (2) yellow flags is limited by reason of curves or otherwise, two (2) additional yellow lights and/or two (2) yellow flags must be displayed at a point three hundred (300) feet further in the direction from which trains approach or at a point where a clear view is available. (See Fig. 73)

(c) On express tracks or where there is a long descending grade or at any point where track conditions or train schedules permit train speeds of thirty-five (35) or more miles per hour, two (2) additional yellow lights and/or two (2) yellow flags must be displayed at a point three hundred (300) feet further in the direction from which trains approach. (See Fig. 73)

(d) In cases where stations, interlockings or other unusual conditions intervene between the two yellow lights and/or two yellow flags referred to in paragraph (a) above and the flagman who is protecting the workmen, two (2) additional yellow lights and/or two additional yellow flags must be placed at the leaving end of such station, interlocking or other unusual condition. Whenever such lights are placed at the leaving end of a station, they must be located at a point beyond the place where the front end of the longest train would make a normal station stop. (See Fig. 74) LIGHTS SET UP IN A FLAGGING ARRANGEMENT ON A STATION PLATFORM MUST NOT BE LEFT UNATTENDED. When the work for which he is flagging is within the limits of a station platform, (See Fig. 75) a flagman must NOT give a signal that will permit a train to enter the station, unless conditions permit that train, by one move, to make its normal station stop with all cars abreast of the station platform. To meet this requirement, the person in charge of the work must, when necessary, provide additional flagmen.

(e) On tracks signalled for traffic in either direction or at any point where it is not uncommon for trains to operate in either direction, caution lights or flags as required in subdivisions (a), (b), (c) and (d) of this rule must be displayed for each direction of train operation. (See Fig. 76) The provisions of this subdivision are not

intended to include tracks in river tubes under normal operation.

(f) When the safety of workmen is in any way jeopardized by the passage of trains on a track adjacent to the track on which the men are working or when, for any other reason, it is necessary temporarily to reduce the speed of trains to not more than ten (10) miles per hour on a particular track, without stationing a flagman on said adjacent or particular track, three (3) yellow lights and/or three (3) yellow flags must be displayed on said adjacent or said particular track at a point 700 feet in approach to the place where the men are working or in approach to the section of track over which it is necessary so to reduce the speed of trains. (See Fig. 77)

(g) When turnouts or crossovers permit diverging routes from any adjacent track to the track which is to be worked upon or obstructed, caution lights or flags must be displayed on such adjacent track as set forth in subdivisions (a), (b), (c), and (d) of this rule and, in addition, at the trailing end of such crossover or turnout, on the track which is to be worked upon or obstructed. (See Fig. 78)

PROCEED LIGHTS AND FLAGS

Rule 70.

On the track or tracks to be worked upon or obstructed or on any track where caution lights or flags are displayed:

(a) One (1) green light and/or one (1) green flag must be displayed a safe distance beyond the farthest point of work or obstruction; such safe distance must be at least the maximum length of trains permitted on the division by subdivision (n) of Rule 36. (See Figs. 72-81, incl.)

(b) Whenever turnouts or crossovers within the areas protected by caution lights or flags allow diverging train movements to another track, one (1) green light and/or (1) green flag must be displayed on such other track at a point a safe distance beyond the point of detour; such safe distance must be at least the maximum length of trains permitted on the division by subdivision (n) of Rule 36. (See Fig. 78)

LOCATION OF CAUTION AND PROCEED LIGHTS AND FLAGS

Rule 71.

(a) Caution and proceed lights and flags must be displayed on the right hand side of the track and so placed that they can be readily seen by the motorman of an approaching train.

(b) Caution and proceed lights and flags must be displayed in such a manner as not to conflict with the indication of any fixed or miscellaneous signal.

(c) At any point where caution lights or flags cannot be displayed on the right hand side of the track as above set forth or on elevated portions where there is no walk on the right hand side of the track, a flagman must be stationed on the left hand side to give the caution signal to approaching trains.

(d) At any point where a proceed light or flag cannot be displayed on the right hand side of the track as above

set forth or on elevated portions where there is no walk on the right hand side of the track, one (1) green light and/or one (1) green flag must be displayed at the nearest point on the right hand side of the track a safe distance or more beyond the farthest point of work or obstruction; such safe distance must be at least the maximum length of trains permitted on the division by subdivision (n) of Rule 36.

PORTABLE TRAIN STOPS

Rule 72.

(a) The portable train stop, primarily designed for use by flagmen, is applied to the rail to insure the positive stop of an approaching train when the motorman fails to acknowledge the stop signal displayed by a flagman. It is to be used in connection with flagging operations only after the proper display of caution lights or flags in accordance with these rules.

(b) The portable train stop may be used at any point on a track where a temporary train stopping device may be required.

(c) The portable train stop consists of two separate units, one known as the base, the other as the stop arm.

(d) The effect of the portable train stop, properly installed, is the same as that of the automatic stop located at signals. When in position the stop arm engages the tripping device of the moving train, causing an emergency application of the brakes.

(e) The portable train stop must be applied to the track at the same location at which the flagman is stationed to perform the flagging operation.

(f) The portable train stop must be so placed that it will engage the tripping device on the forward end of an approaching train.

(g) Because the tripping devices on BMT and IND Division cars are located at different positions from those on the IRT Division cars, the portable train stop must be applied as follows:

On the IRT Division:—to the outside of the rail on the same side as the Motorman's operating cab;

On the IND and BMT Divisions:—to the outside of the rail on the side opposite the Motorman's operating cab.

(h) On the IRT or IND Divisions, if for any reason it is necessary to apply the portable train stop to the rail other than as above specified, an allowance must be made of one additional car length to the distance between the flagman's position and the start of the work area which he is protecting. On the BMT Division and on the IND Division in areas where BMT Division cars are operated, an allowance of three additional car lengths must be made. (Some BMT cars consist of three-car units with a tripping device only on the first and third cars of each such unit.)

(i) After the necessary caution lights or flags have been set up in accordance with these rules, the base of the portable train stop must be clamped securely to the base of the rail, with the stop arm disengaged. When ready to flag trains using the portable train stop, the flagman must place the stop arm securely in its proper tripping position in the base. He must display the red flag or the red light to the full view of the motorman of an approaching train. When conditions are safe to allow the passage of a train,

the flagman must remove the stop arm and perform flagging operations in accordance with these rules.

(j) Under no circumstances must the stop arm be in its tripping position after the flagman has given a proceed signal to a motorman.

(k) FLAGMEN MUST EXERCISE SPECIAL CARE TO AVOID UNNECESSARY TRIPPING OF TRAINS.

(l) Only the flagman using a particular portable train stop or his superior may remove the stop arm once it has been placed in tripping position, except upon orders of the Desk Trainmaster.

FLAGGING PROCEDURE

Rule 73.

On the track or tracks to be worked upon or obstructed;

(a) A flagman equipped with a red light or flag, a white light, a portable train stop and an approved sound-signal device (hereinafter referred to as a "whistle") must be stationed at a point, selected by the employee in direct charge of the work, where a place of safety from trains is readily accessible and where visible and audible warning signals can be readily observed and heard but in no event less than seventy-five (75') feet from the nearest point of work or obstruction. (See Figs. 72-81, incl.)

(b) When a flagman's view of caution lights or flags is limited or obscured by reason of curves or otherwise, the person in charge of the work must assign an auxiliary flagman equipped with a whistle, a yellow light or flag and a red light or flag. In addition, a portable train stop must be used, unless, in the opinion of the person in charge, it is unnecessary. This auxiliary flagman must be stationed at a point where he has a clear view of both the caution lights or flags and the flagman at the work or obstruction and where his visible and audible warning signals can be readily observed and heard by the flagman at the point of work or obstruction. (See Fig. 79) This auxiliary flagman must give warning of approaching trains to the flagman at the work or obstruction. If one such auxiliary flagman cannot be stationed in accordance with the foregoing, the person in charge of the work must assign additional auxiliary flagmen, similarly equipped, at suitable points between the flagman at the work or obstruction and the caution lights or flags, so that each flagman has a clear view of the flagman directly adjacent to him and the last auxiliary flagman has a clear view of the caution lights or flags and so that visible and audible warning signals can be readily observed and heard by adjacent auxiliary flagmen. Each flagman must give warning of an approaching train to the flagman next to him. These auxiliary flagmen must be directed by the person in charge of the work to give, and they must give, a proceed very slowly signal to the motorman of each approaching train with their yellow lights or yellow flags in accordance with subdivision (f) of Rule 68. They must also be directed by the person in charge of the work NOT to give, and they must not give, a STOP signal except in case of emergency.

(c) On tracks signalled for traffic in either direction or at any other point where caution lights or flags are displayed in both directions to protect men engaged in working on or obstructing the track, a flagman or flagmen must be assigned as set forth in subdivisions (a) and (b) of this rule for each direction of train operation. (See

Fig. 76) The provisions of this subdivision are not intended to include tracks in river tubes under normal operation.

(d) Whenever work on a track within a protected area requires men to be working at separate points in close proximity to one another and in such manner that one (1) flagman can not safely protect and warn all the workmen so engaged, one (1) or more intermediate flagmen must be stationed at suitable successive points within that area so that each flagman has a clear view of the flagman directly adjacent to him and the first flagman encountered by trains has a clear view of the caution lights or flags to protect the various groups of workmen. (See Fig. 80) Each intermediate flagman and the first flagman encountered by trains must be equipped with a red light or flag, a yellow light or flag, a whistle and a portable train stop. Proceed signals given to motormen by these flagmen must be by means of a yellow light or a yellow flag, to indicate to motormen that other men are working beyond. The last flagman must be equipped with a red light or flag, a white light, a whistle and a portable train stop. He must give proceed signals to motormen by means of the white light or a hand signal. A proceed signal must not be given to a train by the said first flagman until ALL the workmen in ALL the groups are in the clear and the entire area is safe for a train to proceed.

(e) In cases where two (2) or more groups of workmen, whether from the same or different sections, are engaged in work on, adjacent to or obstructing a track at such locations that the flagging protection for one (1) group would overlap that of another group, i.e., the work area of the first group encountered by trains would be within 2000 feet of the work area of the second group, the persons in charge of such groups must arrange between themselves to provide the necessary flag protection in accordance with these rules. The flagman protecting each group of workmen, except the flagman protecting the last group of workmen encountered by trains must be equipped with a red light or flag, a yellow light or flag, a whistle and a portable train stop. The flagman protecting the said last group of workmen must be equipped with a red light or flag, a white light, a whistle and a portable train stop. (See Fig. 81) Should any one (1) group leave the location before the other group, or groups, the person in charge of the group leaving must PERSONALLY so notify the person in charge of the major group remaining, so that flagging arrangements can be revised to conform to the changed conditions.

(f) Whenever work on or adjacent to a track is of such nature as to require suspension of train movements thereon for a long period of time AND such that said track cannot be restored to service in a period of less than thirty (30) minutes, the Maintenance of Way Department must, immediately after the passage of the last train scheduled to operate on said track, secure such track switches, not required for the necessary movements of trains, as provide entrance to said track from either direction in such position that a train cannot enter said track thereby, tag or block the switch levers or buttons controlling said switches and display two (2) red lights or a red flag between the rails of said track at the points defining the extreme limits of the track over which suspension of train movements is required and properly apply portable train stops to said track at said points.

The person in charge of the work must arrange, in

addition, for the display of two (2) red lights or a red flag between the rails of said track and for the proper application of a portable train stop to said track not less than 500 feet nor more than 700 feet from each end of the work area. (See Fig. 82)

The lights, flags and portable train stops provided for in this subdivision may be left unattended.

The provisions of this subdivision shall apply only when all the persons performing such work are employees of the Authority.

(g) Whenever work on or adjacent to a track is of such nature as to require suspension of train movements thereon for a long period of time, such that said track cannot be restored to service in a period of less than thirty (30) minutes AND ANY OF THE PERSONS PERFORMING SUCH WORK IS AN EMPLOYEE OF AN EMPLOYER OTHER THAN THE AUTHORITY, flagging protection must be provided and maintained on said track in accordance with Rules 66, 69, 71, 72, 74 and 77 and subdivisions (a), (b), (c) and (e) of this rule. The Maintenance of Way Department must, immediately after the passage of the last train scheduled to operate on said track, secure such track switches, not required for the necessary movements of trains, as provide entrances to said track from either direction in such position that a train cannot enter said track thereby tag or block the switch levers or buttons controlling said switches and display two 2 red lights or a red flag between the rails of said track at the points defining the extreme limits of the track over which suspension of train movements is required and properly apply portable train stops to said track at said points. (See Fig. 83)

The lights, flags and portable train stops specifically provided for in this subdivision may be left unattended.

LIGHTS AND FLAGS, REQUIRED EQUIPMENT AND PROCEDURE

Rule 74.

(a) The person in charge of the work in every case must issue specific instructions to flagmen to display caution and proceed lights or flags in accordance with Rules 69, 70 and 71 and must see that his instructions are complied with.

(b) The equipment required must consist of the following:

1. The necessary lights or flags of prescribed color, in working condition;

2. A whistle;

3. A portable train stop and

4. A piece of stout cord, at least 4 feet and not more than 6 feet in length, for tieing the red light or the red flag to the stop arm of the portable train stop.

(c) The required procedure must be the following:

1. The flagman places the green lights or flags at their fixed positions in accordance with these rules;

2. The flagman then places the yellow lights or flags at their fixed positions in accordance with these rules, then

3. The flagman goes to his selected position and places the red light on a tie between the running rails adjacent to the rail to which the portable train stop is

to be attached and places the white light out of the view of motormen. If flags are being used, the red flag must be displayed on the track to be protected. He then attaches the base of the portable train stop to the rail in accordance with Rule 72.

He then inserts the stop arm into the base with the red light or flag attached to the arm by the stout cord but in such a manner as to permit waving the red flag or swinging the red light across the track with the stop arm in tripping position. He then notifies the employee in charge that preparations for flagging protection are completed and then stands in a safe position to perform his flagging duties, holding the red light or flag in his hand.

4. As a train approaches the caution lights or flags, the flagman must:

Sound several long blasts of his whistle to warn his gang, leave the stop arm in its tripping position, swing the red light or hold the red flag across the track until a prearranged all clear signal is received by him from the employee in charge of the work. This all clear signal must be a positive signal from the employee in charge of the work to the flagman that trains may proceed through the protected area.

Upon receipt of such all clear signal, the flagman must remove the stop arm, step into his prearranged place of safety, conceal his red light or flag from the motorman's view and then give a proceed signal to the motorman.

After passage of the train, the flagman must replace the red light or redisplay the red flag and replace the stop arm in the tripping position then return to his safe position, holding the red light or flag in his hand.

IF, AS A TRAIN APPROACHES, THE ALL CLEAR SIGNAL IS NOT RECEIVED BY THE FLAGMAN FROM THE EMPLOYEE IN CHARGE OF THE WORK OR IF THE FLAGMAN OBSERVES ANY UNSAFE CONDITION AFTER HE HAS RECEIVED THE ALL CLEAR SIGNAL, HE MUST CONTINUE TO GIVE THE MOTORMAN A STOP SIGNAL WITH HIS RED LIGHT OR FLAG UNTIL THE TRAIN HAS COME TO A STOP. THE STOP ARM MUST BE LEFT IN THE TRIPPING POSITION.

When the train has stopped, the flagman must continue to swing the red light or hold the red flag across the track, until he receives the all clear signal from the employee in charge of the work or is satisfied that the unsafe condition has been corrected.

IF IT APPEARS THAT THE TRAIN IS GOING TO PASS THE FLAGMAN'S STOP SIGNAL:

The flagman must continue to wave the red light or must wave the red flag as a stop signal to the motorman, at the same time sounding short blasts of his whistle to warn his gang of the impending danger as long as it is safe for him to do so. He must then release his hold on the red light or flag, leave the stop arm in its tripping position and step quickly to his place of safety, continuing to sound his whistle. He must then immediately report the incident by telephone to the Desk Trainmaster having jurisdiction.

5. When, because of the nature of the work, area flagging has been established and intermediate flagmen have been assigned, the first flagman encountered by

trains, observing a train approaching the caution lights must:

Sound several long blasts of his whistle, to warn the workmen he is protecting and to warn the intermediate flagman immediately adjacent to him, leave the stop arm in its tripping position and swing the red light or hold the red flag across the track, until he has observed that the workmen he is protecting and all of their equipment are in the clear and, in addition, has received a proceed signal from the intermediate flagman immediately adjacent to him.

After receiving the proceed signal from the intermediate flagman immediately adjacent to him and after he has observed that the workmen he is protecting and their equipment are in the clear, the first flagman must remove the stop arm, step into his prearranged place of safety, conceal the red light or flag from the motorman's view and then give a proceed very slowly signal to the motorman.

The flagmen between the first and last flagmen, upon hearing the warning signal from the intermediate flagman immediately adjacent to them in the direction of the first flagman, must:

Sound several long blasts of their whistles, to warn the workmen they are protecting and to warn the intermediate flagman immediately adjacent to them, leave the stop arms in their tripping position, swing the red lights or hold the red flags across the track, until they have observed that the workmen they are protecting and all of their equipment are in the clear, and, in addition, have received a proceed signal from the intermediate flagman immediately adjacent to them in the direction of the last flagman.

After receiving the proceed signal from the intermediate flagman immediately adjacent to them in the direction of the last flagman and after they have observed that the workmen they are protecting and all of their equipment are in the clear, they must remove the stop arm, step into their prearranged places of safety, conceal their red lights or flags from the motorman's view and then give a proceed very slowly signal to the intermediate flagman immediately adjacent to them in the direction of the first flagman. They must then continue to observe from their prearranged places of safety the area they are protecting and be prepared to give a STOP signal to the motorman, if, as a train approaches, they observe any unsafe condition. Otherwise, they will give a proceed very slowly signal to the motorman of the approaching train.

The last flagman, upon hearing the warning signal of the intermediate flagman immediately adjacent to him, must:

Sound several long blasts of his whistle to warn the workmen he is protecting, leave the stop arm in the tripping position and swing the red light or hold the red flag across the track until he has observed that the workmen and all their equipment are in the clear. He must then remove the stop arm, step into his prearranged place of safety, concealing his red light or flag from the motorman's view, and give a proceed signal to the intermediate flagman immediately adjacent to him. He must continue to observe the area he is protecting from his prearranged place of safety and must be prepared to give a STOP signal to the motorman, if, as a

train approaches, he observes any unsafe condition. Otherwise, he will give a proceed signal to the motorman of the approaching train.

6. Upon orders from the employee in charge of the work the flagman must remove the flagging protection as follows:

Remove the portable train stop completely. Remove the red light or flag and place it in a concealed position.

Remove the yellow lights or flags.

Remove the green lights or flags, keeping all lights lighted until he has reached a station platform or the place where the lanterns are to be stored.

When the flagging protection is removed all flags must be taken down, not rolled up on the flag-staff where they had been displayed.

The employee in charge of the work must not give orders to remove the flagging protection until all workmen have been safely escorted from the trainway.

7. The employee in charge of the work must remain at the location of the work until all obstructions have been removed, the flagman has safely removed all flagging protection and is safely prepared to leave the job and until AT LEAST ONE (1) TRAIN has safely passed the area where the work has been done.

8. When the flagging protection is removed upon suspension or completion of the work, the Desk Trainmaster of the division must be notified.

INDIVIDUALS, PAIRS AND SMALL GROUPS MOVING FROM POINT TO POINT

(a) Employees of the Authority who perform duties on the tracks, singly, in pairs or in small groups, and who move from point to point or whose duties require them to move from point to point along the trainway, must be on the alert at all times and prepared to clear the track when a train approaches without unnecessarily slowing it down. Underground at all times and out-of-doors between sunset and sunrise, such employees must not enter upon the tracks unless each of them is equipped with an approved light. Flashlights must not be used for protection by those doing maintenance work on or about the tracks. Upon clearing the track to permit a train to pass, EACH such workman must give a proceed signal, by hand or light, to the motorman of the train.

(b) Whenever such individuals, pairs or small groups are working in an area protected by caution lights or flags as prescribed by Rule 69, but are not members of of the group or gang for whom the flagging protection was established, they must not give proceed signals to motormen. The purpose of this rule is to avoid a motorman's confusing such signal with that of the flagman who s protecting a group.

(c) Whenever a pair or small group of employees is ngaged in work of an engrossing nature or at any time hen the view of approaching trains is limited by reason f curves or otherwise, one man of such pair or group quipped with a whistle must be assigned properly to arn and protect the man or men at work and must not erform any other duties while so assigned.

Exhibit 58

SPECIAL INSTRUCTIONS TO MOTORMEN AND OTHERS

Rule 76.

(a) Motormen upon encountering ANY caution lights or flags on the track on which they are operating must immediately reduce the speed of their trains to not more than ten (10) miles per hour, sound two (2) long blasts of the train whistle or horn as a warning to workmen at the point of the work or obstruction and be prepared to stop within range of vision. If the view ahead is obstructed by a curve or otherwise, they must repeat the two (2) long blasts of the whistle at short intervals until they come in sight of the workmen, or until they pass the green light or flag.

(b) Motormen en route, observing one yellow light must act as if there were two such lights displayed, assuming that one light has been extinguished, and must report the condition to the flagman.

(c) Motormen must stop their train at least one (1) car length from flagmen, red flags or red lamps.

(d) If a proceed signal is given with a yellow flag or light, motormen must expect to encounter another flagman on the roadway before reaching the resume speed signal.

(e) Motormen proceeding through an area protected by caution lights or flags must obey only a prescribed proceed signal given by a flagman. They must construe any other signal given as a stop signal. They must not proceed until they have a clear understanding of the meaning of such other signal.

(f) Employees stationed at the head end of trains as flagmen must relay immediately to motormen operating from other than the forward cab of the leading car the indications of flagging signals prescribed in these rules, whenever such signals are encountered.

(g) Motormen must sound their train whistles or horns whenever they observe lanterns, hand lamps or banks of lights along the track, whether or not workmen are visible.

(h) To avoid possibility of injury to persons who may be on the roadway or structure, motormen operating trains, upon observing a person in or around the tracks, must sound their whistles or horns and not pass such person until he is in the clear and has given a proper proceed signal.

EMPLOYEES ENTERING UPON TRACK

Rules 77.

(a) Employees entering upon the trainways in the regular course of their duties must always carry lighted lights as prescribed by these rules and be in a position to observe the approach of trains.

(b) Before entering upon any track or onto any trainway, they must first listen and look in each direction for trains. They must learn the direction of normal traffic on the track and must walk AGAINST the current of traffic when possible.

(c) At all times they must take note of and be prepared to use the spaces available for safety, clear of cars, and avoid those locations where clearance is insufficient.

Exhibit 58

(d) Employees are particularly cautioned with reference to sections of track on which regular operation may at times be abandoned that such tracks are likely to be used at any time by special trains, work trains, lay-up trains etc. AT NO TIME MUST ANY SECTION OF TRACK BE ASSUMED TO BE OUT OF SERVICE. Employees must observe, when on or near tracks, the usual precautions; they must not make any assumptions as to operating schedules.

(e) Employees are particularly cautioned with reference to tracks on which regular operation is usually in one direction only that such tracks may be used for operation in the direction opposite to the normal direction. They must expect trains to operate in either direction and be prepared to take safe positions at all times.

(f) When emergency conditions require the institution of non-planned single track operation on any track by the Rapid Transit Operations Department, it shall be the duty of the Desk Trainmaster immediately to notify all gangs or groups who are working on the track affected, through their respective Control Desks, of such single track operation and to instruct the motorman of the first train which operates against the normal current of traffic to operate with extreme caution, sounding continuous blasts of his train whistle or horn, expecting to find men working on, or adjacent to, such track and prepared to stop within range of vision. The Desk Trainmaster must not commence such non-planned, single track operation until he has so instructed said motorman.

Upon being notified of such emergency single track operation, the person in charge of each gang or group so notified must immediately clear the track of all obstructions, get every employee in his charge into a safe position off the track and notify the Desk Trainmaster by telephone that this has been done. He must not permit any employee to walk upon the track and must station his flagman with the gang or group with instructions to give a proceed signal to all trains. He must maintain contact with the Desk Trainmaster.

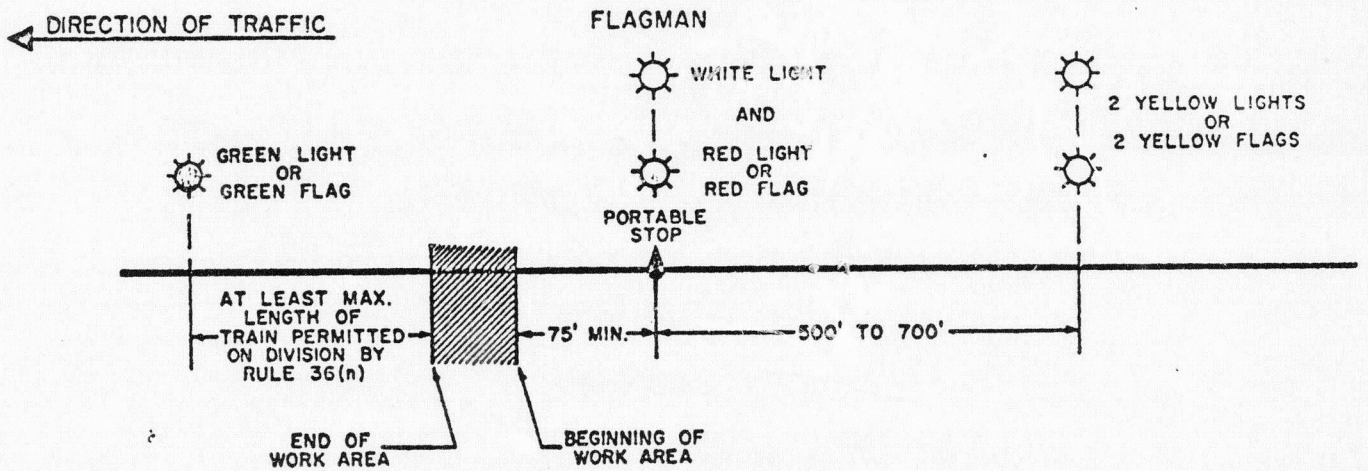
Under single track operation on any track at any time, all employees are forbidden to walk upon or undertake any work within the limits of this single track operation on this track, except in emergency, and then ONLY after having been granted permission by the Desk Trainmaster to do so and ONLY when accompanied by another employee.

(g) Employees walking on tracks or adjacent to tracks must, when a train approaches, get in the clear and stand in a safe location, give the motorman a proceed signal to assure him they are aware of the approaching train and remain in such position until the train has passed.

(h) When it is necessary for workmen to stand between adjacent tracks where there are no structure columns that clearly indicate a safe clearance space and trains on such adjacent tracks may pass such location at the same time, the person in charge must instruct the flagman to stop and hold such train as may be necessary to prevent two (2) trains from passing the workmen at the same time.

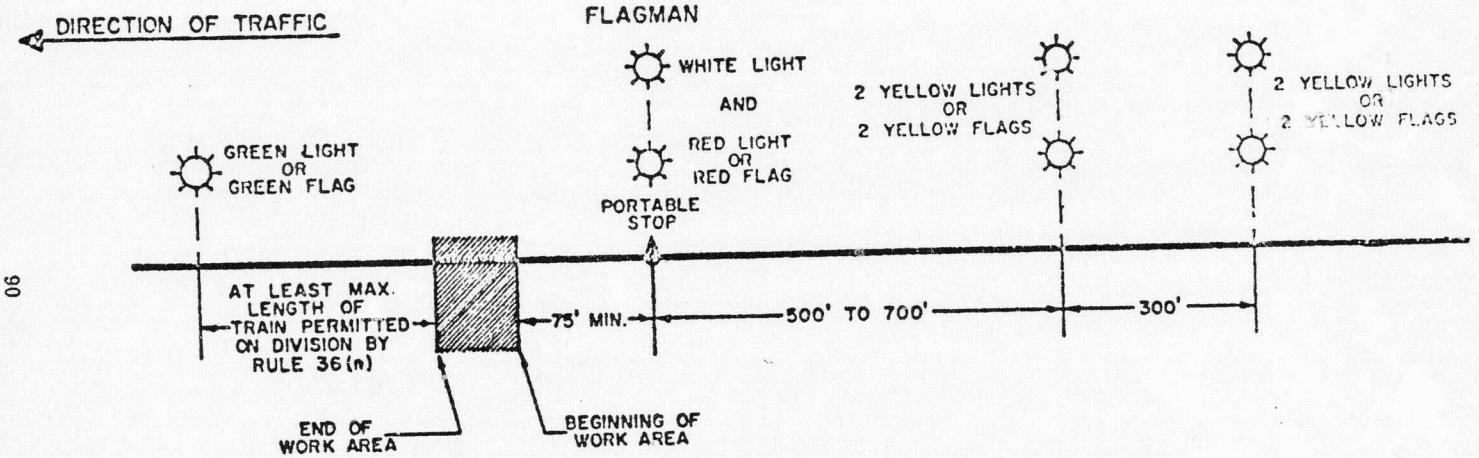
When it is necessary for workmen to stand between adjacent tracks where there are structure columns that clearly indicate a safe clearance space, they must give equal consideration to clearance on both tracks and must expect trains to operate on these tracks at the same time.

FLAGGING RULES



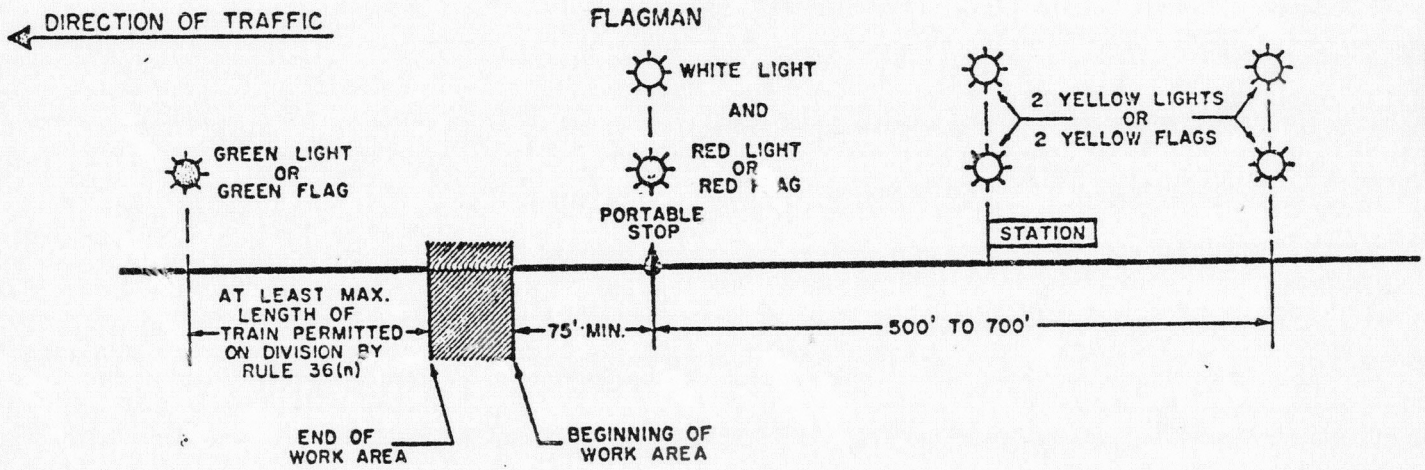
RULES 69(a), 70(a), 71(a) 72, 73(a), 74(c) 1,2,3,4, 76
FIG. 72

FLAGGING RULES



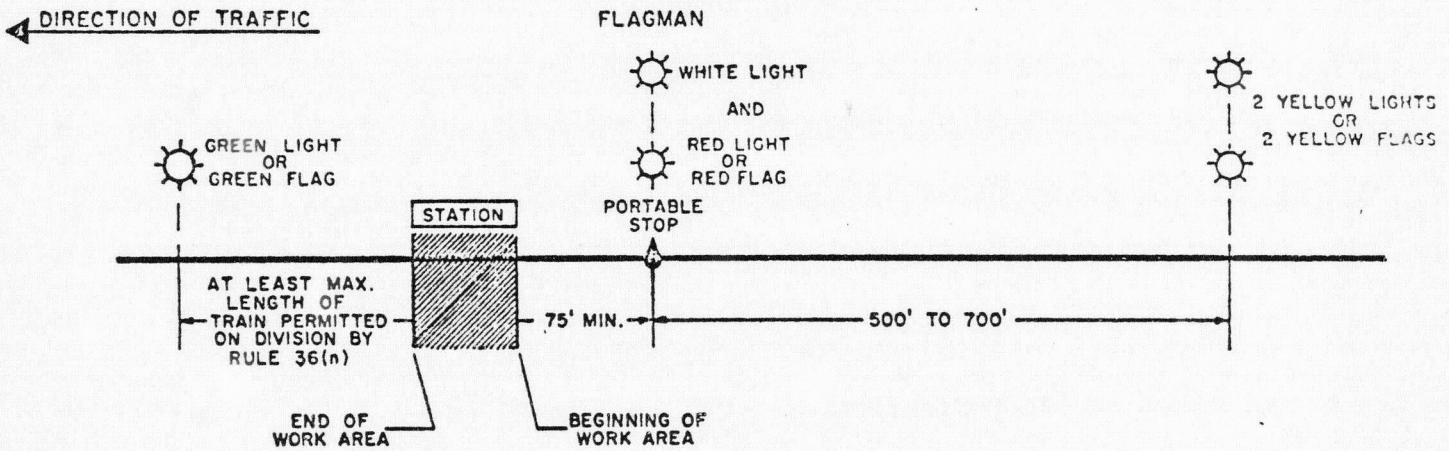
WHERE M/M'S VIEW IS LIMITED BY REASON OF CURVES OR OTHERWISE, OR ON EXPRESS OR DOWN GRADE TRACK WHERE SPEEDS MAY EXCEED 35 M.P.H.
RULES 69(a), 69(b), 69(c), 70(a), 71(a), 72, 73(a), 74(c)1, 2, 3, 4, 76
FIG. 73

FLAGGING RULES

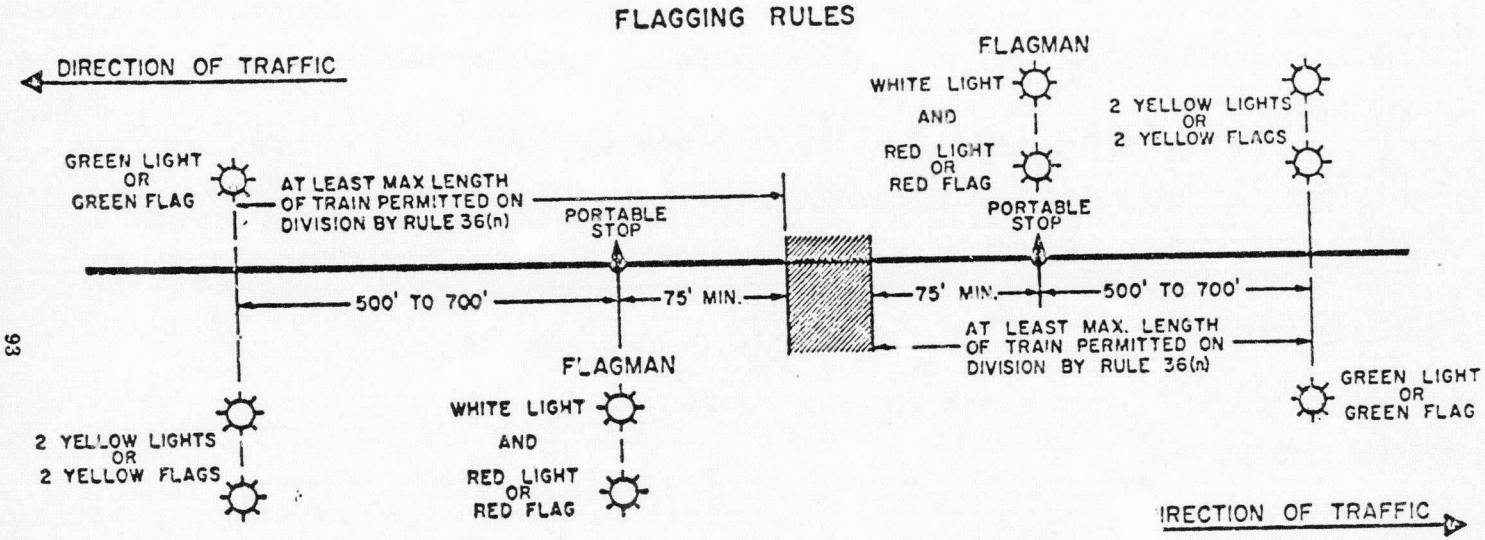


INTERVENING STATION
RULES 69(a),69(d),70(a),71(a),72,73(a),74(c)1,2,3,4,76
FIG. 74

FLAGGING RULES

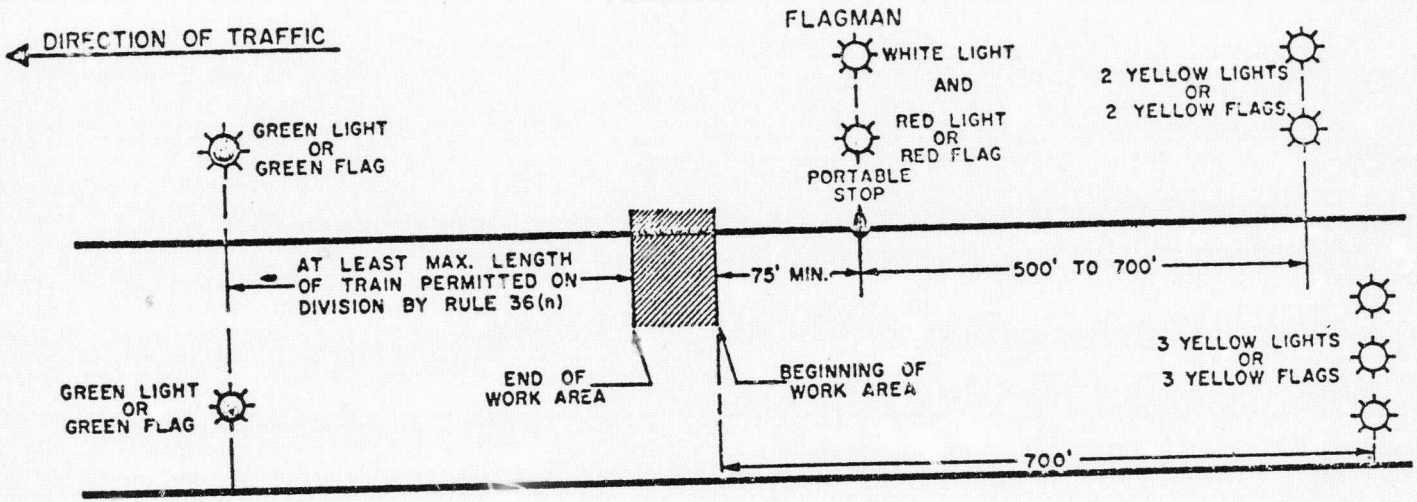


WORK AREA WITHIN CONFINES OF STATION
RULES 69(a),69(d),70(a),71(a),72,73(a) 74(c)1,2,3,4,76
FIG. 75



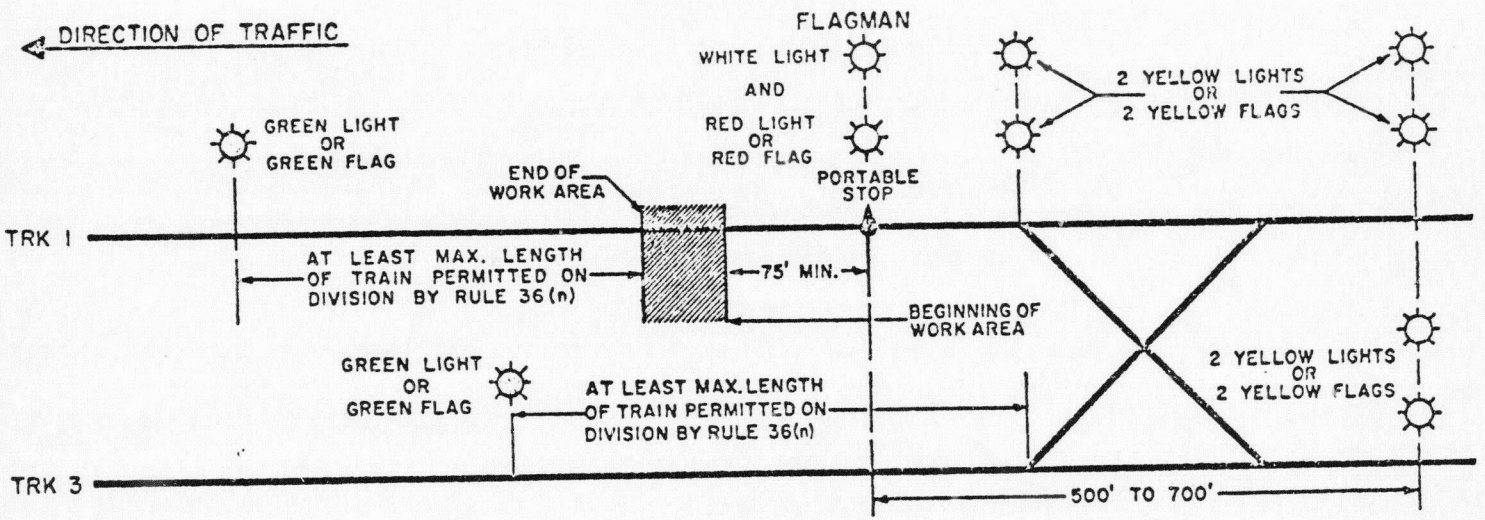
TRACK SIGNALED FOR TRAFFIC IN EITHER DIRECTION
RULES 69(a),69(e),70(a),71(a),72,73(a),74(c)1,2,3,4,76
FIG. 76

FLAGGING RULES



SLOW SPEED ON ADJACENT TRACK
RULES 69(a),69(f),70(a),71(a),72,73(a),74(c)1,2,3,4,76
FIG. 77

FLAGGING RULES

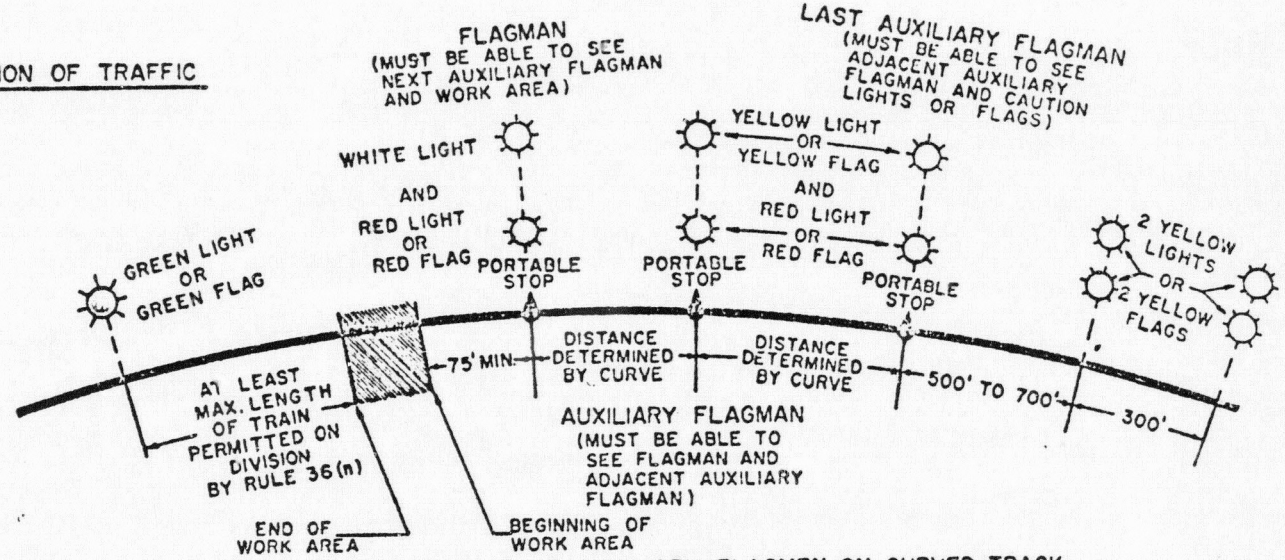


DIVERGING ROUTE

RULES 69(a),69(g),70(a),70(b),71(a),72,73(a),74(c)1,2,3,4,76

FIG. 78

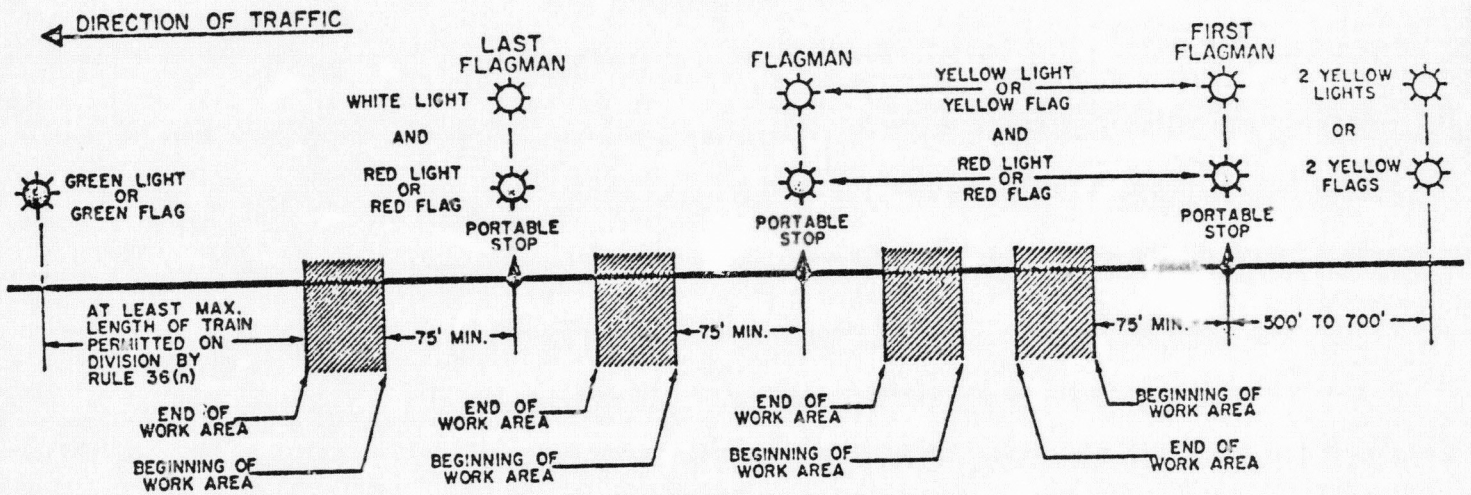
FLAGGING RULES



PLACEMENT OF AUXILIARY FLAGMEN ON CURVED TRACK
RULES 69(a),69(b),70(a),71(a),72,73(a),73(b),74(c)1,2,3,4,76

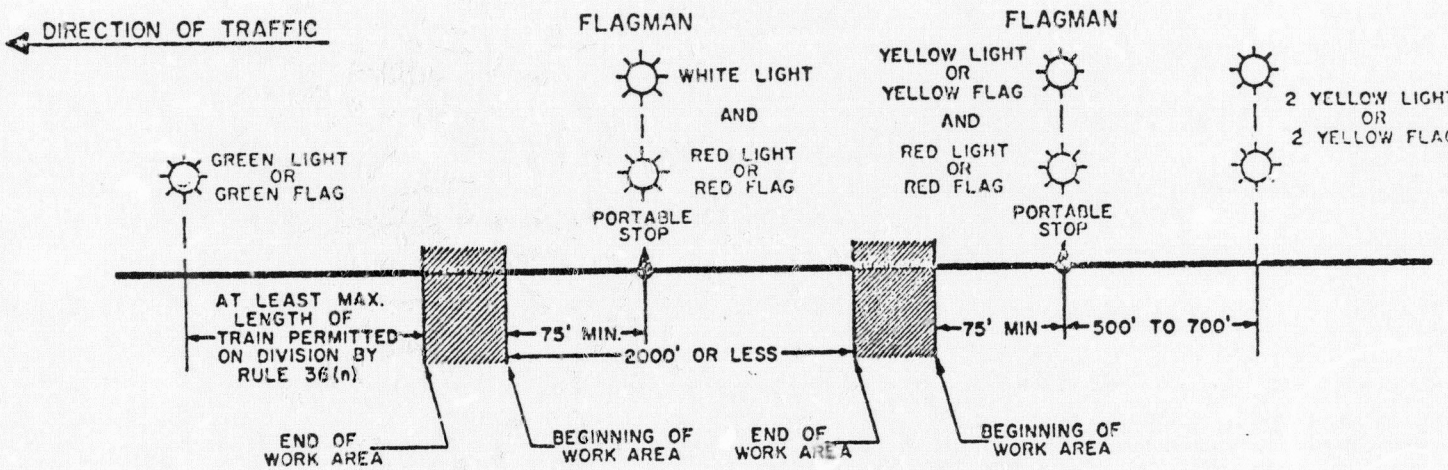
FIG. 79

FLAGGING RULES



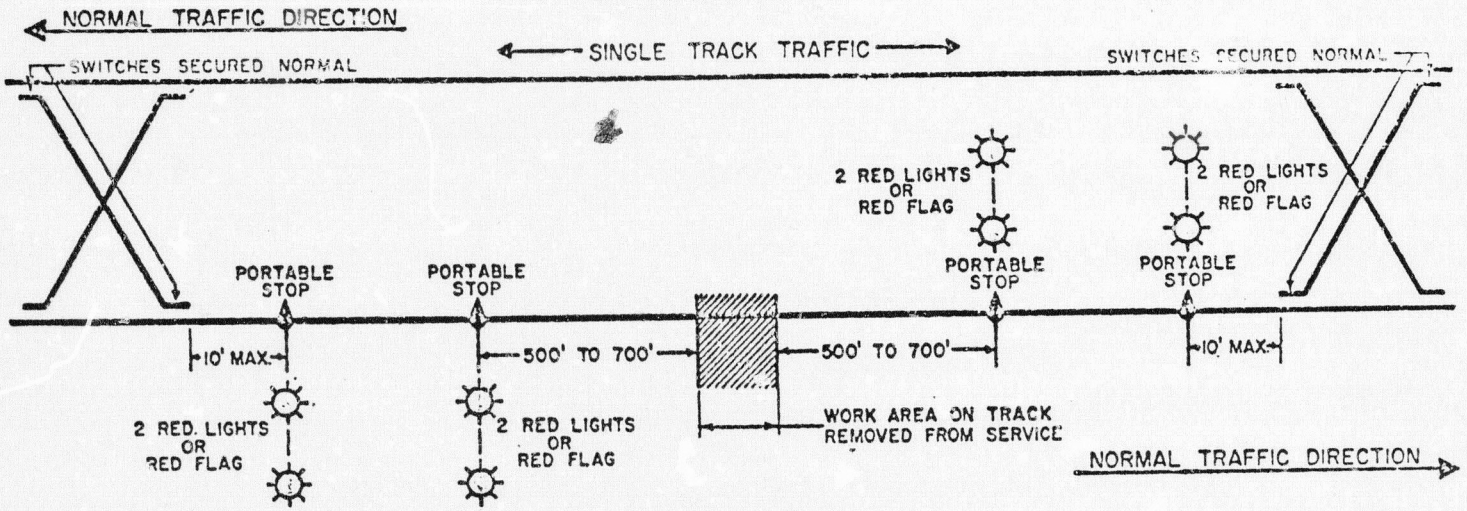
PLACEMENT OF INTERMEDIATE FLAGMAN
WITH MEN WORKING AT SEPARATE POINTS
RULES 69(a),70(a),71(a),72,73(d),74(c)1,2,3,4,5,76
FIG. 80

FLAGGING RULES



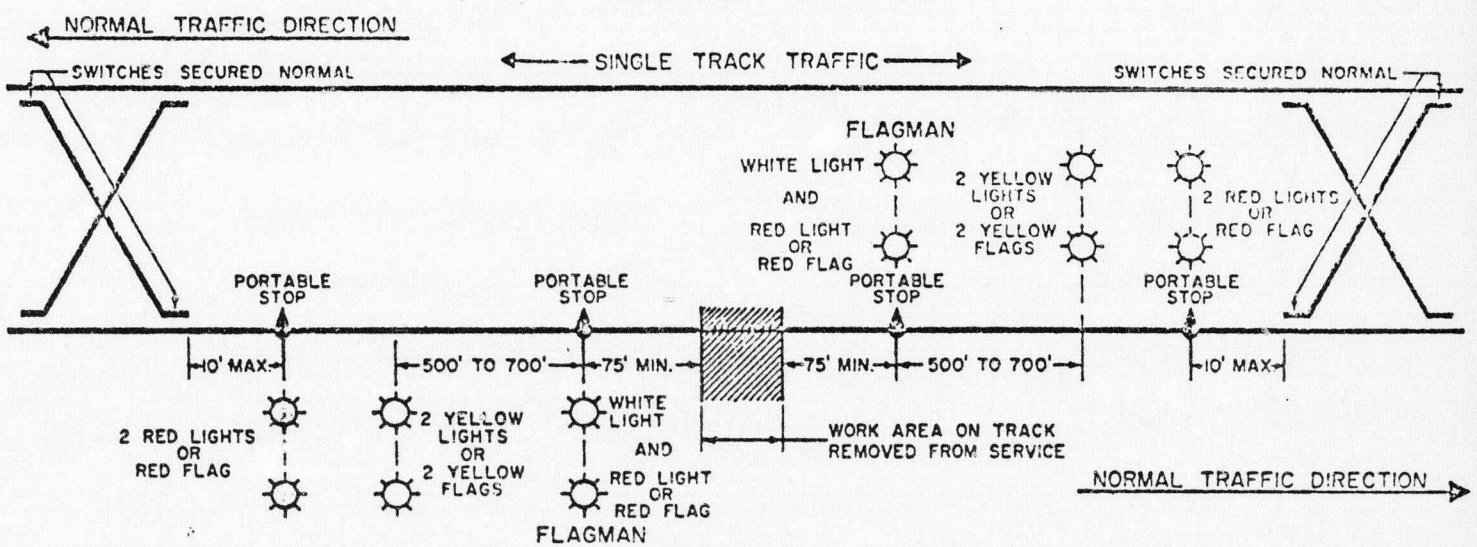
PLACEMENT OF INTERMEDIATE FLAGMAN
WITH MEN WORKING AT SEPARATE POINTS
RULES 69(a),70(a),71(a),72,73(a),73(e),74(c)1,2,3,4,76
FIG. 81

FLAGGING RULES



TRACK REMOVED FROM SERVICE—INTERLOCKING MACHINE BLOCKED AND TAGGED
RULES 66,72,73(f),77
FIG. 82

FLAGGING RULES



(CONTRACT WORK) TRACK REMOVED FROM SERVICE – INTERLOCKING MACHINE BLOCKED AND TAGGED

RULE 73(g)

FIG. 83

2892a

Exhibit 58

Exhibit 58

CHAPTER 4

RULES RELATIVE TO THE OPERATION OF BUSES

BRAKES

Rule 78.

(a) When taking charge of buses surface line operators and maintenance employees must test both hand and air brakes to make certain that braking equipment is in good operating condition.

(b) Employees must not take buses with defective brakes into service. Surface line operators must always arrange for immediate transfer of passengers from buses developing brake trouble while in service.

(c) When required to leave a bus, whether temporarily or for an indefinite period, employees must apply the hand brake fully, shut off the engine, turn the wheels to the curb against grade, place the gear shift lever in neutral position and otherwise secure their vehicles as conditions require. When surface line operators leave vehicles, they must have their change carriers and revenue on their persons.

REPORTING UNUSUAL CONDITIONS

Rule 79.

Unusual conditions affecting the movements of buses must be promptly reported by telephone to the Central Dispatch Office.

PASSENGER STOPS, UNUSUAL STOPS ETC.

Rule 80.

(a) Operators of buses must be constantly on the alert for stop signals of intending passengers desiring to board and of passengers desiring to alight. When intending passengers stand at points other than regular stopping points, they will wave such persons to the next regular stopping point.

(b) When stopping buses for passengers to board or alight, operators must bring buses to a full stop, as close as possible to the right hand curb and so as not to block street crossings or crosswalks. Passenger stops must be made only at points designated as bus stops, with full consideration for passenger safety.

(c) When hazardous conditions exist at a regular bus stop, operators must select a safe stopping point, as near as possible to the regular stopping point, and, at all times, distinctly call the attention of alighting passengers to any unusual pavement conditions.

(d) When a stop is made back of a regular stopping point, because of vehicular congestion at a traffic light or for other cause, operators are not relieved of making another stop at the regular stopping point, if signalled to do so, when traffic again starts moving. After starting from a regular stopping point, operators must not stop again for passengers to board or alight, until arriving at the next regular stopping point.

Exhibit 58

MOVEMENT OF BUSES

Rule 81.

(a) Operators must familiarize themselves with and obey all Police and Traffic Department regulations.

(b) Operators must not operate through, or approach within 100 feet of, a line of children during a school fire drill nor interfere with, hinder, obstruct or impede in any way whatsoever any such fire drill.

(c) When bus route streets are blocked by fire hose or emergency vehicles, street conditions etc., operators must stop not less than fifty (50) feet from any such obstruction.

(d) Operators of buses must not operate through or within established fire or police lines or over any unprotected hose of a fire department when laid down on any street, to be used at any fire or alarm or fire, without the consent of proper authority.

(e) Buses must never be moved except by operators certified as qualified by the Instruction Section. Student operators may move buses only when having written authorization and then only under the supervision of an instructor or a qualified operator.

(f) Operators of buses, under normal conditions, on streets used by only one bus line, must keep a spacing distance of not less than 100 feet between moving buses. When a bus ahead is stopped, operators must be prepared to stop not less than ten (10) feet behind such bus, with further closure of the distance between vehicles dependent on prevailing traffic conditions.

(g) On streets used by more than one bus line they must stop not less than ten (10) feet behind a bus stopping or standing ahead. In congested areas the distances between vehicles may be thereafter reduced as traffic conditions permit.

(h) Operators of buses must stop clear of all intersections and crosswalks and, when standing at the near side of an intersection, must not proceed if a bus on the intersecting street is aproaching within 100 feet of the intersection.

(i) Operators of buses operating on the same street and approaching each other from opposite directions, particularly on streets where movement of traffic is restricted by double-parked vehicles, street obstructions etc., must exercise extreme caution and not pass each other unless certain that there is sufficient clearance to avoid contact.

(j) In situations where an operating area is reduced to a single lane for traffic in both directions, operators of buses must exercise extreme caution and proceed only when it is safe to do so.

(k) Operators of buses must exercise such control as to preclude the possibility of more than two buses entering or standing in a bus stop simultaneously.

(l) Operators of buses must make a full stop not more than seventy-five (75) feet from the nearest rail of any railroad crossing and never attempt to cross such crossing before ascertaining that it is entirely safe to do so. Operation over a railroad crossing must be kept at slow speed.

(m) Operators of buses must follow the established route when operating on public streets. If diverted therefrom, they must report such diversion verbally at the first

opportunity to a member of the supervisory force and also note the diversion route on the back of their Operator's Daily Report.

(n) Operators of buses must frequently inspect the tires of their buses for improper inflation and always avoid striking curbs, sliding wheels, spinning wheels, and other actions which damage tires.

(o) Upon the approach of an authorized emergency vehicle, when the driver thereof is giving a signal by siren, exhaust whistle, bell or blinker lights, operators of buses must immediately drive to a position parallel to, and as close as possible to, the nearest curb, clear of any intersection, and must stop and remain in such position until the authorized emergency vehicle has passed, unless otherwise directed by a police officer.

(p) Operators of buses must not use buses to push other buses or vehicles, unless so ordered by a member of the supervisory force.

(q) Operators of buses must drive carefully over rough pavement and immediately report all unusual pavement conditions to a member of the supervisory force.

(r) Operators of buses must remain constantly alert for Authority vehicles emitting excessive fumes while in motion. They must promptly report such vehicles to Surface Control by bus number, with any further identifying information available.

(s) Operators of buses must shut off bus engines (unless specifically noted or otherwise directed) when delays or lay-overs at ends of lines exceed three (3) minutes.

(t) Unauthorized parking of buses outside of yard limits is forbidden.

(u) Operators of buses must be constantly on the alert to avoid running over obstructions in street areas and must promptly report by telephone to the Central Dispatch Office all unusual conditions that may present an accident hazard.

(v) Where flood conditions exist, operators must operate through water at a slow rate of speed.

(w) Operators must reduce speed when passing schools, hospitals, churches and other houses of worship during hours of services therein and not sound their horns unnecessarily.

(x) When running on public streets, operators must see that all lights of their buses are lighted during hours or times of darkness or when lights are required by law.

(y) When approaching workmen on the streets, operators must have their buses under control, must sound a warning signal at a distance sufficient to give the workmen ample opportunity to step to a place of safety and must never proceed until they are certain that all workmen are in the clear and it is safe to do so.

(z) Colliding with another bus or any obstruction or passing a stop signal or sign constitutes of itself a reason for charges of misconduct and incompetency in accordance with Rule 35 and is prima facie evidence of incompetence, negligence asd misconduct in the performance of duty.

(aa) In foggy weather or at any time when vision is obscured by snow, rain, sleet or smoke etc., they must so operate that they can stop their buses within range of vision in order to insure the safety of passengers and/or

bus. Under these conditions schedule time may be disregarded.

(ab) Surface line operators must regulate the movements of their buses, as nearly as possible, to a uniform speed on all parts of the road, except as otherwise specified for curves, bridges etc.

(ac) Surface line operators must not operate ahead of schedule time unless ordered so to do by proper authority. When leaving a terminal late or when an excess interval separates bus from bus ahead, surface line operators must endeavor to economize time to close gap, PROVIDED THIS CAN BE DONE WITH SAFETY. Reckless operation is positively forbidden.

(ad) Surface line operators must use care in starting and stopping their buses to avoid sudden jerking.

(ae) They must promptly report any defects or damage found on buses.

REVERSE MOVEMENT OF BUS

Rule 82.

Buses will be operated in reverse only when no other turn or movement is possible. The movement in reverse must not be made until a visual inspection of the area to the rear of the bus has been made by the operator.

The operator should be guided by some responsible person stationed at the rear left of the bus. When the operator has ascertained that it is safe to back, he must signal by giving three toots of the horn before starting a reverse movement.

Safety of operation is the full responsibility of the operator in charge of the vehicle. Failure to exercise the caution required in a reverse movement is considered and treated as reckless and incompetent operation.

BUSES PASSING BUSES

Rule 83.

(a) Under normal operating conditions in regular passenger service on streets used by one bus route, when bus ahead is operating on schedule time, passing the bus ahead is prohibited. When the bus ahead is a headway behind schedule time, passing the bus ahead is required, but only when the bus ahead is standing at a designated bus stop and only when it has been ascertained that none of the persons in said bus stop desires to board.

(b) Under normal operating conditions in regular passenger service on streets used by more than one bus route buses of one route may pass buses of another route, but only when the bus of the other route has made a regulation passenger stop at a designated bus stop and remains standing in said stop until the passing bus has cleared.

(c) Extra care must be exercised when approaching a bus ahead with intention of passing it. Operation must be at a reduced speed and ample warning given by sounding the horn. The operator of the standing bus must keep his bus standing until the passing bus is in the clear and has proceeded a safe operating distance beyond the standing bus.

Exhibit 58

WINDOWS, HEATERS, VENTILATORS AND WINDOW LATCHES

Rule 84.

(a) Surface line operators are responsible for the adjustment of heat switches, ventilators and windows in accordance with weather conditions.

(b) Employees laying-up buses must close all doors, windows and ventilators, checking, while so doing, the proper functioning of all window latches. Defective latches must be reported.

Exhibit 58

CHAPTER 5

RULES RELATING TO ACCIDENTS AND UNUSUAL OCCURRENCES

PREVENTING ACCIDENTS; EMPLOYEES TO GUARD PASSENGERS

Rule 85.

Employees must take every precaution to prevent accidents or injuries to persons or damage to property. In case of accidents or disturbances on trains or buses, or at stations or any other locations along the System, THE SAFETY OF PASSENGERS MUST RECEIVE FIRST CONSIDERATION and prompt action must be taken to prevent excitement and alarm. EMPLOYEES MUST RENDER ALL PRACTICAL ASSISTANCE in cases of accidents, disturbances or disorders, must preserve order to the best of their ability and must use every effort to guard passengers against accidents or annoyances.

EMPLOYEES TO MAKE WRITTEN REPORTS OF ACCIDENTS OR UNUSUAL OCCURRENCES

Rule 86.

(a) In case of accidents or unusual occurrences to persons (whether employees or not) or in cases of damage to property, ALL employees having knowledge of the accident or the unusual occurrence, whether on duty or not, must make written reports on the prescribed forms as soon as it can be done. If the accident is serious, an oral report to the division or control office must be made by telephone at the time of the accident.

(b) In case of an accident to a passenger, employees must, if possible, secure the business address and telephone number, in addition to the home address and telephone number, of the person or persons injured or alleged to be injured.

(c) Persons involved in accidents, or claiming to have been involved in accidents, must never be informed that a representative of the Authority will communicate with them; all persons requesting information respecting claims against the Authority must be directed either to write to, or personally to visit, the Authority's Law Department at Room No. 541, 370 Jay Street, Brooklyn 1, New York.

FURTHER FACTS TO BE INCLUDED IN REPORTS

Rule 87.

(a) In cases of accidents or unusual occurrences, employees must obtain the names and addresses of all witnesses. If any witnesses are employees of the System, the names, pass numbers and departments to which they are assigned must be given and such information must be included in the written report of the accident or occurrence. If any persons present are such uniformed personnel as are permitted pursuant to Rule 24 (a) to ride on the transit facilities of the Authority without payment of fare by reason of their being in uniform, reasonable efforts

must be made to secure the shield numbers and the names of the agencies employing such persons.

(b) Employees having, or learning of, information of value to the System in regard to an accident, to an unusual occurrence or to a disturbance must submit promptly in writing such information to their department heads.

(c) In reporting accidents, disturbances or unusual occurrences, the date, the time, the exact location where the incident occurred, or is claimed to have occurred, and any unusual or irregular incidents in connection therewith are important and must be included in reports of same.

(d) With respect to accidents in which a bus or train is involved, when the number of such bus or of at least one car of such train or the name of the operator or the names of the train crew have not been secured, employees must indicate the exact time of the occurrence and secure the number of the following bus or of at least one car of the following train.

(e) In making reports in which doors, stairways, escalators, turnstiles etc., are involved or mentioned, employees must always give the letter or number appearing on same when there are such designating marks.

(f) In case of an accident on a station platform, escalator, stairway, passageway, turnstile, or anywhere else where the condition of the place might be important, employees must where practicable, examine the conditions of the place where the accident happened and should ask the witnesses also to examine such place. If the accident is on or about the station, the employee discovering same must, in addition, report it to the railroad clerk on duty.

(g) When an accident occurs, or is reported to have occurred, on System property, an immediate inspection of the structure or equipment involved must be made and a report of such inspection on the prescribed form submitted. If the accident occurs on any part of a station or approaches thereto a porter's report must be immediately secured and forwarded with the prescribed accident report.

(h) When two or more trains or buses are involved, reports must be made by the crew or operator of each.

(i) When one employee turns over an injured person to the care of another employee, both employees must exchange names, titles and pass numbers and include this information in their reports.

(j) Employees must not act upon the suggestion of an injured or allegedly injured or aggrieved person "not to make a report" or "that it is not worth reporting" but must follow the foregoing instructions and submit a report on the prescribed forms.

(k) All disputes or disturbances of any kind must be reported in the same manner as accidents.

ACCIDENT REPORTS CONFIDENTIAL

Rule 88

Accident reports, facts and conditions connected with accidents and names of witnesses are confidential information. Employees must not communicate, either orally or in writing, with any person in reference to accidents except with the proper officials of the System or except, with knowledge of the Authority, with the proper authorities entitled to such information.

BEST COPY AVAILABLE

Exhibit 58

PASSENGERS UNABLE TO CARE FOR THEMSELVES

Rule 89.

Passengers appearing unable to take care of themselves by reason of intoxication or other causes and who are liable to injury must be placed in charge of a Transit Patrolman, other employee or of a City Patrolman. Employees must not allow persons who are not in condition to take care of themselves to pay their fares or otherwise pass to the platform of a station, or to enter a bus of the System.

ACCIDENTS TO EMPLOYEES

Rule 90.

(a) Employees must not incur risks from which they can protect themselves by personal care and by the exercise of judgment and in all cases must take the time necessary to perform their duties safely. All "Safety-first" instructions must be rigidly adhered to at all times by all employees.

(b) Employees must exercise care to avoid injury to themselves and others by observing the condition of the equipment and tools with which they work and the condition of the structures upon which they work and, if same are found to be defective or in such condition as might result in accidents to themselves or others, they must, if practicable, put them in safe condition and report the facts to their superiors.

(c) Employees must not presume to judge the seriousness of injuries to themselves, however slight. They must, when injured on duty or on the property of the System, whether the injury is slight or serious, immediately report such injuries to their superiors. In cases of superficial injuries not requiring medical attention said superiors must direct employees to the attention of qualified First Aiders, when such are available. The First Aider must submit a First Aid form to report the incident.

When qualified First Aiders are not available or when the injuries are not superficial, employees must make immediate report of the injuries by means of the "Report of Accident to Employee" form and must be directed to report to their designated Authority clinic or to a designated hospital. If an employee is physically unable to prepare and sign such report, an authorized employee must prepare the report for him; as soon as he is able to do so, the injured employee must submit his own signed report on the prescribed form. In addition, the immediate superiors of injured employees must submit reports upon the prescribed forms.

(d) In the case of an accident to an employee on duty, where the injury is not superficial but immediate hospital attention is not required, the employee must report in person to a physician of the System at the clinic designated for his group, between the hours of 9:00 A.M. and 5:00 P.M. on weekdays; on Saturdays, Sundays and holidays, between the hours of 9:00 A.M. and 12:00 noon, to Clinic #4 at No. 370 Jay Street, Brooklyn, New York.

(e) In any case in which an employee is directed to a hospital, he must report in person to a physician of the System, as prescribed in subdivision (d) above.

(f) The provisions of this rule shall in no way constrict or forbid the exercise of the employee's rights under the New York State Workmen's Compensation Law.

FIRST AID KITS AND STRETCHERS

Rule 91.

(a) First aid kits and/or stretchers are located at certain change booths and at Dispatchers' Offices, shops, substations and other convenient points on the System for use in case of injury to passengers or employees. They must not be used for any other purpose. The person who opens a kit or uses a stretcher must promptly telephone a report of the occurrence to the Desk Trainmaster or to his respective control office, giving the nature and extent of the injury, the name of the party treated (employee or passenger), the articles used from the kit and, if a stretcher was used, whether it was returned to its proper location or where it can be located.

(b) The person who opens a kit must immediately submit a report to his department on the form prescribed by the Safety Bureau, setting forth the time, date and location of the accident; if the aided is an employee, his name, title, pass number, department and section; if the aided is a non-employee, his name, age, home and business addresses and telephone numbers. In either case the manner in which the injury was sustained, the first aid care given, the disposition and the first aid materials used must be set forth.

(c) The employee in charge of the kit is responsible for its being kept properly sealed and in good order.

Exhibit 58

PART II

RULES AND REGULATIONS RELATIVE TO DUTIES AND RESPONSIBILITIES OF EMPLOYEES

CHAPTER 6

DUTIES AND RESPONSIBILITIES OF CERTAIN SUPERVISORY EMPLOYEES OF THE NEW YORK CITY TRANSIT SYSTEM

GENERAL MANAGER

Rule 92.

The Members of the New York City Transit Authority are full time public officials having the statutory duty to construct, reconstruct, improve, maintain and operate the transit facilities which constitute the New York City Transit System and to make plans, surveys and studies for the establishment of additional transit facilities. The General Manager will assist the Members of the Authority in the carrying out of these duties and subject to the direction of the Authority, he will have general supervision over the business and affairs of the Authority.

GENERAL SUPERINTENDENT (SURFACE)

Rule 93.

The General Superintendent (Surface) will report to the General Manager. He will, under general supervision, be in full charge of the operation and maintenance of all the surface lines of the System.

ASSISTANT GENERAL SUPERINTENDENTS

Rule 94.

(a) Assistant General Superintendents, except those mentioned in subdivision (b) and (c) hereof, will report to the General Manager, Each will be assigned to a department and will, under general supervision, manage, direct and supervise the operations of his assigned department.

(b) The Assistant General Superintendent (Surface Transportation) will report to the General Superintendent (Surface) will manage, direct and supervise the operation of all the surface lines of the System.

(c) The Assistant General Superintendent (Surface Maintenance) will report to the General Superintendent (Surface) and will manage, direct and supervise the proper care and upkeep of all automotive equipment of the System.

SUPERINTENDENTS

Rule 95.

Superintendents will report to the Assistant General Superintendents to whom they are assigned. They will exercise general supervision over such employees of their departments as are assigned to them.

ASSISTANT SUPERINTENDENTS

Rule 96.

Assistant superintendents will report to the superintendents to whom they are assigned and will perform such duties as may be assigned to them.

SUPERVISORS

Rule 97.

Supervisors will report to the assistant superintendents to whom they are assigned and will perform such duties as may be assigned to them.

ASSISTANT SUPERVISORS

Rule 98.

Assistant supervisors will report to the supervisors to whom they are assigned and will perform such duties as may be assigned to them.

Exhibit 58

CHAPTER 7

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE RAPID TRANSIT OPERATIONS DEPARTMENT

TRAINMASTERS AND ASSISTANT TRAINMASTERS

Rule 99.

(a) Trainmasters and assistant trainmasters will report to the superintendents (Transportation) or their representatives.

(b) They will exercise supervision over and be directly responsible for all employees in train or yard service and the operation of all trains in accordance with approved timetables. They will see that the rules and regulations and special instructions are fully understood and obeyed.

(c) They will report promptly to their superiors all failures or neglect on the part of employees and anything that may come to their attention which may interfere with the proper and safe operation of trains.

(d) They must know that all employees under their supervision are equipped with all necessary flags and lights for giving signals and with all other things necessary for the performance of their duties and that such equipment is used in accordance with the rules.

(e) They must give special attention to the proper and safe operation of trains and in case of accidents or serious detentions, they must at once do what may be practicable to remove the cause and restore normal conditions.

(f) They must see that yards are kept in good order, that cars due for inspection and cars requiring repairs are promptly sent to the shops.

(g) They must investigate all unusual occurrences to which they are assigned to establish the causes thereof and the responsibility therefor, submitting a full report thereof in writing.

CHIEF SCHEDULE MAKER (RAPID TRANSIT)

Rule 100.

(a) The Chief Schedule Maker will report to the Assistant General Superintendent, Rapid Transit Operations, and to the superintendent (Transportation) to whom he is assigned.

(b) He will exercise supervision over the Bureau of Schedules and Traffic Research.

(c) He will be responsible for such traffic checks as are necessary to obtain accurate data for the preparation of schedules, number of cars required etc.

(d) He will have direct charge of the study of traffic conditions, detentions, adequacy of train service etc., and will supervise the preparation of train schedules, timetables and work programs.

(e) He will maintain records of all mileage data.

Exhibit 58

SCHEDULE MAKERS (RAPID TRANSIT)

Rule 101.

(a) Schedule Makers will report to the Assistant General Superintednent, Rapid Transit Operations, and to the Chief Schedule Maker.

(b) They will prepare train schedules, timetables, crew sheets and work programs and such supplements thereto as may be required.

MOTORMEN INSTRUCTORS AND ASSISTANT MOTORMEN INSTRUCTORS

Rule 102.

(a) Motormen instructors and assistant motormen instructors will report to superintendents (Transportation) and will cooperate with the trainmasters as may be required.

(b) They have general supervision over the qualification and performance of all motormen and conductors.

(c) They must ride trains frequently and note the manner in which train service employees perform their duties and correct any improper actions.

(d) They must report promptly any violation of rules or neglect of duty on the part of train service employees.

(e) They must conduct, as required, a school of instructions on car equipment and train operation for such employees as shall be designated by the proper authorities.

(f) They must promptly investigate all complaints, accidents or delays to service and render whatever assistance is possible.

(g) When on or at the location of a disabled train they are responsible for and must assist in the safe movement of such train.

TRAIN DISPATCHERS

Rule 103.

(a) Train dispatchers will report to trainmasters and assistant trainmasters.

(b) They are responsible for the expeditious and correct dispatch and safe movement of trains within the limits assigned to them and will have supervision of all employees in train and yard service in their respective sections.

(c) Whenever extra trains are authorized they must give sufficient advance notice to all concerned of the starting time and destination thereof, the tracks to be operated over and the nature of the work to be performed.

(d) They must report to the superintendent of their division any neglect of duty or infraction of rules which comes to their attention.

(e) They must report at once to the Desk Trainmaster all unusual intervals between trains with a view to regulating train movements so as to provide intervals in accordance with the current timetable.

(f) They must assume charge of any unusual occurrences in train service in their respective sections until the arrival of a ranking supervisory employee of the Rapid Transit Operations Department and must at once notify the Desk Trainmaster of any interruptions to train movements. They will be governed by the recom-

mendations of motormen instructors or assistant motormen instructors regarding the safe movement of disabled trains.

(g) They must keep records of all absent employees and of other employees who fill their places and of the time worked and must submit such records daily to the Assistant General Superintendent, Rapid Transit Operation, as may be required.

(h) At terminals they must ascertain that motormen and conductors in road service are in fit condition and proper uniform and at their posts on their trains two (2) minutes before their trains are scheduled to depart with all train identification equipment and other fixtures properly displayed and in place. When required they must also ascertain that conductors or any other employees assigned to platform duty are in fit condition and proper uniform and that they perform their duties as assigned.

(i) They must not permit a train to start with a motorman or a conductor unfit for duty. They must remove any unfit employee from service and report such unfitness immediately to the Desk Trainmaster.

(j) They are responsible for all Bulletin Boards in their respective sections and must know that all authorized material is properly posted or removed in accordance with the positions designated for each type thereof.

(k) They will, when required, conduct and supervise all picks of runs and tours of duty in accordance with the working conditions and be responsible for all assignments of train crews.

(l) They must qualify to operate and, upon such qualification, must operate, when directed, interlocking plants and control points within the limits of the section assigned to them.

(m) They may be required to hook down stop arms and flag trains in emergencies to expedite train service.

(n) They must use or direct the use of the Station Public Address System, where provided, to inform passengers of delays and diversions of service, in emergencies and as otherwise directed.

(o) They are responsible for the proper recording of all car trips on the prescribed forms.

YARDMASTERS

Rule 104.

(a) Yardmasters will report to trainmasters and assistant trainmasters.

(b) They are responsible for all train movements in the yards to which they are assigned and must maintain accurate records thereof. They must see that all trains are properly made up and are ready for scheduled movement in accordance with the instructions of the trainmaster, assistant trainmaster or train dispatcher.

(c) They have charge of all train service employees in their yards and must ascertain that all employees are in fit condition to perform their duties. They must remove all unfit employees from service and report such unfitness immediately to the Desk Trainmaster.

(d) They are responsible for all Bulletin Boards in their respective yards and must know that all authorized material is properly posted or removed in accordance with the positions designated for each type thereof.

(e) They must make a personal, weekly, physical inspection of their yards and compile a written inventory of the cars actually therein at the time of such inspection.

(f) They must report promptly any defects in cars, tracks, signals and other equipment which may cause trouble or interfere with the safe and expeditious movements of trains. They must report all "out of service" cars and their movements.

(g) They must keep records of all absent employees and of other employees who fill their places and of the time worked and must submit such records daily to the Assistant General Superintendent, Rapid Transit Operations, as may be required.

(h) They must cooperate with the Car Maintenance Department to facilitate the movement of cars to and from inspection shops and must be extremely vigilant to prevent cars requiring repairs from being placed in revenue operation.

(i) They must qualify to operate and, upon such qualification, must operate, when directed, interlocking plants and control points within the limits of the section assigned to them.

(j) They may be required to hook down stop arms and flag trains in emergencies to expedite train service.

ASSISTANT TRAIN DISPATCHERS

Rule 105.

(a) Assistant train dispatchers will report to trainmasters, assistant trainmasters and train dispatchers.

(b) They have charge of the crewing of trains and must keep Train Register Sheets on which they will note the time of arrival and departure of all trains, the car numbers, the names of the motormen and conductors and such additional information for submission to the superintendent as may be required. They must also enter on Train Register Sheets the names of motormen and conductors putting trains into, and laying trains up from, service.

(c) When necessary, they will regulate the intervals of trains as traffic requires and keep gap sheets on which they will note the time of arrival and departure and, when possible, the leading car number of all trains. They will submit any resulting changes in intervals to the Desk Trainmaster or other superior as may be required.

(d) They will report to the train dispatcher daily the names and pass numbers of all absent motormen and conductors and of the employees who have been substituted for such absentees.

(e) They must properly record all car trips on the prescribed forms.

(f) They must qualify to operate and, upon such qualification, must operate, when directed, interlocking plants and control points within the limits of the section assigned to them.

(g) They may be required to hook down stop arms and flag trains in emergencies to expedite train service.

MOTORMEN

Rule 106.

(a) Motormen will report to trainmasters and assistant trainmasters and to motormen instructors and assistant

motormen instructors; in addition, they are subject to orders from train dispatchers, yardmasters and assistant train dispatchers.

(b) THEY MUST TAKE EVERY PRECAUTION FOR THE SAFETY OF THEIR TRAINS AND PASSENGERS. WHEN A TRAIN IS IN MOTION THE RESPONSIBILITY FOR SAFE RUNNING RESTS ENTIRELY UPON THE MOTORMAN. NO COLLISIONS WILL BE EXCUSED.

(c) They are under the orders of the conductor in regard to starting, stopping and general operation of the train between terminals, but they shall not obey any order that may endanger the safety of the train or passengers or which may involve a violation of the rules.

(d) They must never leave their trains en route, except in an emergency; in such case they must first secure the train against moving.

(e) While en route they must keep a constant look-out to observe the position of all switches and signals. If a route is set up for other than scheduled line, they must bring their train to an immediate stop and report to the towerman or to the Desk Trainmaster, stating the circumstances, and must not start their train until satisfied that it is safe to do so. If a route is established from express to local track or from local to express track, they must accept such route and proceed without further orders, PROVIDED SAID ROUTE DOES NOT DIVERT THEM FROM THEIR SCHEDULED LINE. They must, when running on other than their normal track, upon arrival at a subsequent interlocking equipped with a route request device, operate route request button or use route request telephone to communicate with towerman to return to their normal track. If, after a route request button is used, the alternate route continues to be displayed, they must accept said route, PROVIDED SAID ROUTE PERMITS THEM TO CONTINUE ON THEIR SCHEDULED LINE AND TO RETURN TO THEIR NORMAL TRACK AT A SUBSEQUENT INTERLOCKING.

: They must not rely on information from anyone as
e time interval between their train and the one ahead
e preceding train may have stopped just after pass-
ut of sight. They must govern themselves strictly in accordance with the rules at all times.

(g) At any time when passing a fixed signal indicating proceed, prepared to stop at next signal, motormen must govern the speed of their trains so that there is no possibility of their running past the next signal, should that signal indicate STOP. They must reduce speed to conform with Slow Signs and other instructions before reaching curves and continue at the prescribed speed until the entire train has rounded the curve. Motormen must approach all STOP signals, trains ahead, junctions and terminals with their trains under full control.

(h) They must regulate the movement of the train, as nearly as possible, to a uniform speed on all parts of the road, except as prescribed around curves or over switches. THEY MUST COAST AS MUCH AS POSSIBLE CONSISTENT WITH MAINTAINING SCHEDULE TIME.

(j) They must not run ahead of schedule time unless ordered so to do by proper authority. When a train leaves a terminal late or when an excess interval separates it from the train ahead, motormen will endeavor to economize time to close the gap, PROVIDED THIS CAN BE

DONE WITH SAFETY. Reckless running is strictly forbidden.

(j) They must see that there is always sufficient air in reservoir and brake pipe. The air gauge must be carefully examined in every instance before starting a train, rounding curves, descending grades, approaching signals or other trains and before materially increasing speed.

(k) Should train trouble develop en route, motormen must immediately notify the Desk Trainmaster, giving name, location, destination, the interval represented and the nature of the trouble.

(l) If, at any time, electric brake trouble occurs and motormen are compelled to operate pneumatically, they must bear in mind that a train cannot be stopped as quickly as with the electro-pneumatic brake and must handle their trains accordingly.

(m) They must observe station car stop signs and must stop the first car of a train of designated length opposite the proper sign.

(n) They must be careful not to overrun station platforms. Should this happen, however, they must give the prescribed signal and wait for the prescribed signal from the conductor before proceeding. Should they make a short stop at a station for any cause, they must give the prescribed signal and must wait for the prescribed signal from the conductor before pulling up to the proper station car stop sign.

(o) UNDER NO CIRCUMSTANCES SHALL A MOTORMAN BACK A TRAIN IF HE HAS OVERRUN A STATION PLATFORM.

(p) They must use care in starting and stopping their trains to avoid sudden jerking.

(q) They must see that on the front end of the train the safety chain is in position, the storm door closed and locked and the proper end destination and route signs, marker and running lights are illuminated and displayed. They must also see that the proper side destination signs are illuminated. When the train has arrived at the turning track and is stopped, said lights must be changed to display RED.

(r) Upon observing a person in or around the tracks, they must sound their whistles or horns and not pass such person until he is in the clear and has given a proper proceed signal.

(s) In all cases where a train comes to an undesired emergency stop and the motorman knows that a fixed signal is not involved, he must, after properly securing his train, make an inspection of the roadway on both sides of the train, where possible, to determine whether the emergency stop resulted from some obstruction on the roadway. He must, in addition, walk a sufficient distance behind his train, to try to determine the exact location and cause of the emergency application of the brakes.

(t) They must familiarize themselves with destination and route signs, markers and signals on cars and with the general and special rules and regulations governing the operation of trains.

(u) They must not move a train at any point without first knowing that the train has sufficient brakes working properly.

(v) At all times they must be extremely vigilant to observe that switches and signals are operating properly and particularly during cold and stormy weather.

to avoid damage to the equipment and, at all times, must be extremely vigilant to observe that switches and signals are operating properly.

(w) Motormen assigned to road service must be on their trains at least two (2) minutes before their scheduled departure time from terminals with all train identification equipment and other fixtures properly displayed and in place.

CONDUCTORS ASSIGNED TO TRAIN SERVICE

Rule 107.

(a) Conductors assigned to train service will report to trainmasters and assistant trainmasters and to motormen instructors and assistant motormen instructors; in addition, they are subject to orders from train dispatchers, yardmasters and assistant train dispatchers.

(b) They have charge of trains and are responsible for the safety, regularity and proper care and condition of trains and such orders as they may give, not conflicting with the rules and regulations or special instructions, must be obeyed.

(c) THEY MUST TAKE EVERY PRECAUTION FOR THE SAFETY OF THEIR TRAINS AND PASSENGERS.

(d) They are directly responsible for carrying out the rules and regulations and special instructions as they apply to the cars governed from their respective operating positions and, on all divisions, must, when the running time between two stations is five or more minutes, patrol the cars governed from their operating positions when the number of passengers in the train will permit.

(e) Conductors finding any defects in the cars of their trains must report same promptly to the motorman thereof and to the first road car inspector and train dispatcher available and must enter all defects on the Car Defect Sheet upon arrival at their terminals.

(f) They must familiarize themselves with the rules and regulations and special instructions governing motormen in the movement of trains so that they may know that the rules, regulations and instructions are properly executed. Should a motorman without authorization fail to make a scheduled station stop, they must immediately operate an emergency valve and investigate the cause therefor.

(g) Conductors assigned to a secondary position are subject to the orders of the conductor in charge of the train to which they are assigned and must assist him in the performance of his duties.

(h) While en route they must never leave their train (except in cases of emergency) and will then be governed by subdivision (v) hereof until they have been properly relieved.

(i) They must know the markers of all trains designating class and destination and must see that the proper side destination and route signs are displayed on all cars of the trains to which they are assigned.

(j) They must see that safety chains between adjacent cars are properly in place while the train is in service. At locations where they are required to mount steps, they must properly replace the safety chains as soon as they get down from the steps.

(k) They must never open side doors until the train

has come to a full stop and they know from careful observation that all such doors are abreast of the station platform.

(l) If, for any reason, some side doors do not open, passengers must be given ample opportunity to detrain and entrain.

(m) Before closing the doors, they must afford passengers an opportunity to detrain and entrain. Doors must not be closed until they have been fully open for at least (10) seconds.

(n) In case a side door is out of order, the use of the door must be discontinued. On all but R-type cars a sign reading, "THIS DOOR NOT WORKING" must be placed on the door.

(o) They must be alert to prevent the operation of, or interference with, car doors, at any point, by unauthorized persons.

(p) At stations where starting or holding lights are installed they must not close doors until such lights so indicate and then they must close doors promptly but with safety.

(q) They must keep doorways, aisles and passageways clear of all obstructions.

(r) Conductors assigned to lay-up trains must close all storm doors, windows and ventilators on such trains.

(s) If a passenger becomes disorderly, annoying or dangerous, such passenger must be asked to leave the train at the next station. Upon his refusal to do so, he must be ejected in compliance with Rule 27.

(t) Conductors on all divisions must observe the doors of their trains from their operating positions until they have reached the end of the station platform or until the train has moved a distance of three (3) car lengths, whichever distance is shorter. Failure to comply with this subdivision constitutes of itself a reason for charges of misconduct and incompetence in accordance with Rule 35 and is prima facie evidence of incompetence and misconduct in the performance of duties.

(u) Train conductors must pay strict attention to the cleanliness of the cars of their trains and, without interference with the performance of their primary duties, must remove discarded newspapers and other large pieces of paper therefrom depositing same in waste receptacles provided for this purpose.

(v) Before leaving their trains to descend to the trainway or to go onto a station platform, they must first open a conductor's emergency valve. Upon their return they must reset the emergency valve and, when it is safe to proceed, pass the prescribed proceed buzzer signal to the motorman.

(w) When it is necessary to set up a new door operating position, the train must be stopped in a station. The conductor must open a conductor's emergency valve at his original operating position, pass one (1) long buzzer signal to the motorman, then proceed to the new operating position. At the new operating position he must first open a conductor's emergency valve and then set up the new operating position, BUT only after he has depressed the closing caps, levers or buttons on both sides of the train, so that there is no danger of the doors' on the off-platform side of the train opening. He must then reset the conductor's emergency valve at the original position,

change the drum switch, or drum switches, there, to function with the new operating position, and then return to the new operating position where he will reset the conductor's emergency valve and, when it is safe to proceed, pass the prescribed proceed buzzer signal to the motorman.

(x) They must use the Public Address System, on cars so equipped, to inform passengers of delays, in emergencies and as required by special instructions.

(y) They must be on their trains at least two (2) minutes before their scheduled departure time from terminals.

(z) Conductors assigned to duties as handswitchmen are responsible for the safe passage of trains over manually operated switches which must be properly secured. Their duties require the closest attention—since any neglect may cause serious accident—and must be performed in accordance with the following:

1. They must carefully examine the condition of all switches and promptly report any defects therein.

2. They must keep switches clear of snow and other obstructions.

3. When necessary they must carry lighted lights in the performance of their duties so that their positions may be known to other employees.

4. They must familiarize themselves with horn, whistle, hand and light signals.

5. When using switches at points not interlocked, they must see that they are properly set and locked before allowing trains to pass over same and must not unlock or unlatch a switch until the entire train has passed. They must be positive that switches are properly set and locked after use.

6. In the uncoupling of cars the signal to move must NOT be given until safety chains, safety gates, air hoses, electrical connections, etc., have been disconnected and, where used, the coupling pin drawn. The latter must always be drawn LAST. In coupling cars, the draw bar connections must be made before any others.

7. They must see that air hoses not in use are secured in dummy couplings and that jumpers not in use are hung upon racks and never left lying where they may be damaged.

(aa) Conductors assigned to fare collection tricks are accountable for the collection of fares from all persons entering their trains, except those specifically authorized to ride free by Rule 24.

(ab) They must remit in the prescribed manner all monies, tokens, tickets, etc. received through the medium of their fare boxes, money meters, or otherwise.

(ac) They must not deposit any fares or monies in fare boxes or money meters. Fares must be deposited only by passengers.

(ad) They must change coins or bills in the denomination of two (2) dollars or less. They must return to the passengers the full change and/or tokens for coins or bills tendered to them for change. They are not required to sell more than one (1) token per passenger at any time. They must make each transaction without any discourtesy or any show of dissatisfaction.

(ae) Failure to comply in any respect with any of the

provisions of subdivisions (aa), (ab, (ac) or (ad) of this rule will be deemed prima facie evidence of mishandling of revenue.

(af) Should any person claiming the right to ride free fail to establish his or her identity satisfactorily, they will endeavor to cause the arrest of such person therefor and must thereafter submit a report of the circumstances and a description of the individual.

CONDUCTORS ASSIGNED TO PLATFORM DUTY

Rule 103.

(a) Conductors assigned to platform duty will report to trainmasters and assistant trainmasters and to motormen instructors and assistant motormen instructors; in addition, they are subject to orders from train dispatchers, yardmasters and assistant train dispatchers.

(b) They must render such assistance as is needed to maintain the scheduled movements of trains and must take such precautions as are necessary to maintain order and to guard passengers against accident or annoyance.

(c) They must announce in a carrying voice the class and destinations of approaching trains and must stand at car doors when trains stop to see that passengers detrain and entrain as rapidly as possible consistent with safety.

(d) Just before the doors close they must announce in a carrying voice, "WATCH THE DOORS, PLEASE" and pass the proper signal.

(e) They must carefully observe closing doors to prevent passengers' being struck or clothing or packages of passengers being caught by same.

(f) They must prevent anyone from entering upon or crossing the tracks from one platform to another or entering upon the cat-walks at the ends of stations, unless he be an official of the System or an employee in the discharge of his duties or a person with a special permit.

(g) They must not leave their posts of duty until they are properly relieved except in emergency or to render assistance to passengers.

(h) If necessary to leave their posts of assignment to guard defective doors on a train or otherwise to ride a train or to assist in an emergency at their assigned stations or elsewhere, they must report the circumstances by telephone to the Desk Trainmaster or to the nearest train dispatcher at the first opportunity. They are not, however, permitted to perform the duties of the conductor of any train they may be called upon to ride unless they are properly qualified.

(i) Conductors assigned to platform duty must pay strict attention to the cleanliness of the station platform to which they are assigned and, without interference with the performance of their primary duties, must remove discarded newspapers and other large pieces of paper therefrom, depositing same in waste receptacles provided for this purpose.

TOWERMEN

Rule 109.

(a) Towermen will report to trainmasters and assistant trainmasters; in addition, they are subject to orders from train dispatchers, yardmasters and assistant train dispatchers.

(b) They must obey the instructions of their designated superiors as to the proper use of the interlocking levers or buttons, emergency devices and other parts of the signal system which they are required to operate.

(c) They must not use unauthorized appliances in the operation of interlocking or control machines; they must not remove authorized appliances from said machines without proper authority.

(d) They must pay close attention to their duties in order to avoid delays or accidents and are fully responsible for the proper and safe movement of all trains over the tracks and switches in their charge.

(e) They must observe the control machine panels and/or model boards in their respective towers and must report to the Desk Trainmaster all unusual intervals between trains.

(f) They must, when directed, crank and secure switches, hook down stop arms, flag trains, and perform such other duties as are necessary to expedite train movements.

(g) They must familiarize themselves with the signals and markers of trains which designate class and destination, with the train schedules and with the rules and regulations and special instructions governing train movements.

(h) They must when required maintain records of all train movements on prescribed forms at their respective locations.

(i) They must not clear a signal for a reverse movement beyond the limits of an interlocking and against the normal direction of traffic without authority and without proper flagging protection. They must also notify the train crew of such movement.

(j) They must observe, as far as practicable, whether the positions of switches and the indications of signals correspond with their respective levers, lever lights, buttons and control panel lights.

(k) At part time towers, they must, when practical, prior to scheduled train operations, test-operate the required portions of the interlocking.

(l) They must cooperate with signal maintenance employees engaged in testing or maintaining any of the devices or appliances uses in the operation of an interlocking.

(m) When for any reason it is necessary to divert a train from its regular route, THEY MUST NOT clear the home signal for the diverging route until the train has passed the approach signal, unless otherwise directed.

(n) They must not allow two (2) non-revenue trains to follow one another, except in emergencies or in cases where light trains are required to be operated to terminals for the making up of service.

(o) They must not permit unauthorized persons in or about the control area.

(p) In case of an obstruction on the track they must at once display a red signal and stop approaching trains.

(q) Towermen operating at street crossings must lower gates a reasonable time before an approaching train reaches the crossing and keep them lowered until the entire train has passed and it is certain that no other train is approaching. They must remain at their posts during the prescribed hours. When it is necessary for them to be temporarily absent from a crossing protected by gates, the gates must first be lowered.

Exhibit 58

CHAPTER 8

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE STATION DEPARTMENT

ASST. GENERAL SUPERINTENDENT, STATIONS

Rule 110.

(a) The Asst. General Superintendent of the Station Department will report to the Executive Officer (Operations and Maintenance).

(b) He is responsible for and will exercise supervision over all matters pertaining to the operation of the Station Department.

(c) He will exercise general supervision over and is directly responsible for all employees in the Station Department.

SUPERINTENDENT, STATIONS, CHIEF OF OPERATIONS

Rule 111A.

(a) The Superintendent, Stations, Chief of Operations, will report to the Asst. General Superintendent, Stations.

(b) Under the general supervision of the Asst. General perintendent, Stations, he will plan and execute organiza- responsible for the Station Department including the safety and proper handling of moneys, block tickets, tokens and lost property; the cleaning of all subway and elevated stations of the Rapid Transit System and the collection of revenues.

SUPERINTENDENT, STATIONS, SUPPORT ACTIVITY

Rule 111B.

(a) The Superintendent, Stations, Support Activity, will report to the Asst. General Superintendent, Stations.

(b) Under general supervision of the Asst. General Superintendent, Stations he will plan and execute organizational activities, analyze situations and solve problems arising therefrom.

(c) He will supervise and be responsible for forward planning activities, designed to result in the safe, efficient and expeditious movement of passengers into and out of rapid transit stations; property improvement, inventory control of materials, supplies and equipment and testing of same, scheduling of work assignments, and arranging for time studies.

SUPERINTENDENT, STATIONS, LABOR RELATIONS AND PERSONNEL

Rule 111C.

(a) The Superintendent, Stations, Labor Relations and Personnel will report to the Assistant General Superintendent, Stations.

(b) He will carry out the prescribed policies and procedures covering labor relations and personnel.

(c) He will serve as a hearing officer for the Station Department in cases involving employee grievances or disciplinary actions.

(d) He will represent the Station Department in all matters pertaining to grievances, interrogations and investigations involving personnel.

(e) He will supervise and be responsible for the indoctrination and training of Station Department employees.

SUPERINTENDENT, STATIONS, BOOTH ACTIVITIES

Rule 111D.

(a) The Superintendent, Stations, Booth Activities will report to the Chief of Operations.

(b) Within budget limitations, carry out prescribed policies and procedures covering accommodations of the riding public and collection of fares, accounting and remittance of revenue collected and transportation of revenue collected and transportation of revenue to the money room; issuance of orders relating thereto, as well as others concerned with safety, lost property, special coverage, emergencies.

SUPERINTENDENT, STATIONS, ENVIRONMENTAL CONTROL

Rule 111E.

(a) The Superintendent, Stations, Environmental Control will report to the Chief of Operations.

(b) He will carry out prescribed policies and procedures covering cleaning activities on stations of the rapid transit system, and issuance of orders relating thereto, as well as others dealing with safety, special coverage, emergencies.

SUPERINTENDENT, STATIONS, NIGHT SUPERINTENDENT

Rule 111F.

(a) The Superintendent, Stations, Night Superintendent will report to the Chief of Operations.

He will administer prescribed policies and procedures covering accommodation of the riding public, collection of fares, remittance of revenue collected, transportation of revenue to money room, and direct station cleaning programs; issue special orders relating thereto, as well as others concerned with safety, lost property, special coverage, emergencies.

STATION SUPERVISORS

Rule 112.

(a) Station Supervisors will report to the Superintendents, Stations and to other superior officers as may be required.

(b) They will supervise Station Department employees on duty within their assigned zones or other designated areas and must see that they comply with all rules, regulations and special instructions.

(c) They will determine that current work schedules for employees under their jurisdiction provide efficient and effective service.

(d) They will ascertain that station controls and other facilities are properly arranged to expedite the free and orderly movement of passengers in the stations and will recommend such changes as are deemed necessary.

Exhibit 58

FOREMAN, TURNSTILES
(Formerly - Inspectors Of Safes)

Rule 113.

(a) Foreman, Turnstiles, assigned to the Station Department will report to the Station Supervisor to whom they are assigned and to other superior officers of the Station Department as may be required.

(b) They are responsible for making regular inspection of locking mechanisms of the safes of all high turnstiles, of safes installed in all change booths, of all other safe equipment, cancellation boxes and of all seal punches and dies in use in the Station Department.

(c) They must make all necessary repairs to the locking mechanisms of all change booths and high turnstile safes and of all seal punches and dies. When any repairs are made by other departments to booth or high turnstile safes, they will be responsible for the funds therein during the making of such repairs.

(d) They are responsible for the safekeeping of such master keys for safes, of such combination dials, safe locks, seal punches and dies as have been entrusted to their care and will treat as confidential the combinations of any safes given them.

(e) They are responsible for the safeguarding of all funds from any safe, or cancellation box under the jurisdiction of the Station Department, when such funds are transported from one location to another by reason of the making of repairs, or as directed. They must see that all rules and regulations are observed when such transfer of funds is made.

ASSISTANT STATION SUPERVISORS

Rule 114.

(a) Assistant Station Supervisors will report to Station Supervisors and to other superior officers of the Station Department as may be required.

(b) They are in charge of designated groups of stations or other designated areas and all employees of the Station Department assigned thereto. They are responsible for the manner in which all employees in their groups perform their duties and must see that they observe all rules and regulations and schedules of work prescribed for them.

(c) They will determine that current work schedules for employees under their jurisdiction provide efficient and effective service.

(d) They will ascertain that station controls and other facilities are properly arranged to expedite the free and orderly movement of passengers in the stations and will recommend such changes as are deemed necessary.

FIELD AUDITORS

Rule 115.

(a) Field auditors of the Accounting Department have full authority, under the direction of the Chief Accountant, to audit the accounts of any and all booths, at any time, as well as to require the railroad clerks or others involved to answer any queries, or submit any statements pertaining to the revenue and supplies.

(b) They must, at all times, present their credentials to satisfy railroad clerks and others as to their identity.

(c) They must cooperate with the Station Department

Exhibit 58

Supervision in all matters pertaining to the auditing of the accounts of railroad clerks.

COLLECTING AGENTS

Rule 116.

(a) Collecting Agents will report to Asst. Station Supervisors in charge of their designated collection train and will be under the general supervision of the Station Supervisor in charge of revenue collection and to the line supervision in whose territory they are performing their duties and other superior officers of the Station Department as may be required.

(b) Collecting Agents assigned to duties in the Surface Transportation Department will report to the location chief at their reporting depot.

(c) Collecting Agents assigned to duties in the Revenue Department will report to the Supervisor of the Money Room.

(d) Collecting Agents are subject to the Rules and Regulations governing Special Patrolmen promulgated by the Police Department of the City of New York.

(e) They will compose armed crews for the daily collection of revenue from stations or depots for transportation to the Revenue Department and will deliver sealed bags of tokens or coins to booths as required. They will be in charge and will operate armored trucks when necessary either for making system collections or for delivering deposits to designated banks.

(f) They will exercise care in transporting revenue at all times complying with prescribed procedures and will be held accountable for said revenue until properly relieved. They will submit the required routine reports and reports of unusual circumstances.

RAILROAD CLERKS

Rule 117.

(a) Railroad Clerks will report to Asst. Station Supervisors and will be under general supervision of the Station Supervisors.

(b) They are accountable for the collection of fares from all persons entering through the controls at their booth, except those specifically authorized to ride free by Rule 24.

(c) They must remit all monies, tokens, tickets, received through the medium of their turnstiles or otherwise through their controls in payment of fares and must submit all reports pertaining thereto.

(d) They must never allow or direct persons to enter through the controls of their stations by the exit gate thereof or in any manner other than by a turnstile or authorized fare box, except those specifically authorized to ride free by Rule 24, or those presenting valid transfers, block tickets, senior citizen tickets, or vouchers in payment of fare.

(e) Failure to comply in any respect with any of the provisions of subdivisions (b), (c), or (d) of this rule will be deemed prima facie evidence of mishandling of revenue.

(f) They must change coins or bills in the denomination of five ($5.00) dollars, or less. Transactions must be made promptly and as far as possible in denominations requested. In their dealings with the public they must be courteous, helpful without being officious or overbearing.

(g) Employees must be conservatively attired and must present a neat and tidy appearance.

(h) They must give special attention to the physical condition of the station structure and equipment, reporting to their superiors needed replacements or repairs, any unclean or unsanitary condition.

(i) Except in an emergency or when otherwise authorized, they must forbid ALL persons from entering the change booths, except the following properly identified:

The Chairman and Members of the Metropolitan Transportation Authority; All Executive Officers of the Transit Authority; Asst. General Superintendent (Stations); Chief of Operations (Stations); all Superintendents (Stations); Station Supervisors and Assistant Station Supervisors on duty; Auditors; employees assigned to assist them or to make authorized reliefs; railroad porters actually cleaning booths or giving comfort or other authorized reliefs to railroad clerks; maintainers, actually repairing equipment in the booth, or any person with express authority in writing from the Executive Officer (Operations & Maintenance) or the Asst. General Superintendent, Stations to enter change booths.

(j) They must promptly report any employee refusing to permit identification card to be examined at the booth window.

(k) Should any person claiming the right to ride free fail to establish identify satisfactorily and make deliberate entry without payment of a fare, the station employee present will endeavor to cause the arrest of such person therefor and must thereafter submit a report of the circumstances and a description of the individual.

(l) They will permit newspaper carriers of recognized agencies, upon the deposit of the prescribed button with the clerk, to enter through the controls free, to deliver newspapers to newsstands on the station. If the deposited button is not called for within twenty (20) minutes, the clerk must not return it to the carrier but must forward it to the Station Department with an explanatory report. Such buttons must not be accepted for transportation.

(m) They must require all newspaper carriers to handle their bundles in such a manner as not to endanger the safety of passengers or interfere with the free movement of passenger traffic and must not permit newspaper carriers to enter the controls with newspapers tied with metal fasteners or wire nor with any bundle of papers which exceeds twenty-four (24) inches in its largest dimension.

(n) They must not leave their booths or places of assignment during their tours of duty, except during their prescribed lunch periods, or for necessary comfort reliefs or in extreme emergencies and then only when replaced by an employee authorized by these rules to substitute for them unless permitted by a superior to leave without a substitute, in which event they must lock the doors and windows of booths before leaving and take such other precautions as are necessary to safeguard revenue. They must keep booth doors locked at all times.

(o) When a passenger reports that a turnstile is out of order and no platform or gate man is available they will take name and address of passenger and request that additional revenue fare be paid stating that the Transit Authority will reimburse passenger for actual fare lost. They will not leave booths unattended in the above in-

stance, but will telephone the Station Department Office immediately.

(p) They must not permit any employees, or others, to loiter in or around the booth or booth controls.

(q) They must, when leaving a booth to retrieve tokens, read turnstile meters or to perform other duties, close and lock the door of said booth.

(r) When assigned to departments other than the Station Department, railroad clerks must report to the supervisor of the department to which they are assigned and must perform their duties as prescribed by that department.

(s) When taking charge of a booth or being relieved they must follow the rules and procedures prescribed in the Station Department Manual of Instructions.

(t) All Railroad Clerks, except those assigned to booths manned 24 hours a day will enter on the Time Control Log form the time they report "ON" and "OFF" duty at the head booths or other designated booths. Recording of the time will be made at the time of the occurrence and not in anticipation of it. Each entry must be initialled by the Railroad Clerk on duty at the 24 hour booth.

RAILROAD CLERKS ASSIGNED DUTY *OTHER THAN BOOTHS*

Rule 118.

(a) Railroad Clerks assigned to other than booth duties must wear prescribed cap and badge and see that entry and departure through exit gates are made in an orderly manner.

(b) They must keep the turnstiles under close surveillance at all times and assist in maintaining free and proper movement of traffic through them.

(c) When specifically instructed, they must assist the Railroad Clerks in booths in the performance of their duties.

(d) They must take necessary action to preserve order and must use every effort to guard passengers against accident or annoyance.

(e) They must see that there are no obstructions which may interfere with or impede the orderly and expeditious movement of passengers.

RAILROAD PORTERS

Rule 119.

(a) Railroad Porters will report to Asst. Station Supervisors and will be under the general supervision of the Station Supervisors.

(b) They are responsible for keeping the entire station or stations, under their care in a clean and sanitary condition at all times and for the proper performance of all duties affecting the cleanliness of their stations as well as for the proper performance of those duties specifically assigned to them by schedule or otherwise.

(c) They must, upon authorization by the supervision in the department office, give comfort reliefs—NOT TO EXCEED TEN (10) MINUTES EACH—to railroad clerks on duty in their stations, to permit them to visit toilets. These reliefs must be given only in cases of emergency. In the event that any railroad clerk abuses the privilege of having porters give comfort reliefs or overstays any

ten (10) minute period such fact must be reported immediately to the station supervisor by telephone.

(d) They are authorized to make lunch reliefs when assigned to such duties. Under no circumstances shall they make any lunch relief except when so assigned.

(e) They are expressly prohibited from entering the change booths, except for the purpose of cleaning or for the purpose of giving an authorized relief. When cleaning has been completed or relief has been made, they must leave booths immediately and must not, in any case, loiter in or around booths.

(f) They must exercise care while performing their duties to avoid injury to themselves or others and must not place or store supplies or equipment in any place where they will result in a hazard. All materials used in the performance of a specific duty must be properly stored upon completion of the duty.

(g) They must properly sign the Station Time Control Log at the control booth when reporting "ON" or "OFF" duty, when going to and returning from lunch or when scheduled or otherwise authorized to leave the station. Recording of the time will be made at the time of the occurrence and not in anticipation of it.

(h) Whenever an accident occurs or is reported to have occurred on their stations, they must immediately submit a report on the prescribed form.

(i) They must not place a private lock on any Porters' Room or station storeroom where porters' supplies or equipment are kept and they must not, with intent to secrete same, place porters' supplies or equipment where they cannot be found by other employees or by supervision.

(j) They must give special attention to the physical condition of the station structure and equipment, reporting to their superiors needed replacements or repairs, any unclean or unsanitary condition requiring assistance for correction.

RAILROAD PORTERS ASSIGNED TO OTHER DEPARTMENTS

Rule 120.

When assigned to departments other than the Station Department, railroad porters will report to the supervisor of the department to which they are assigned and will perform their duties as prescribed by that department.

Exhibit 58

CHAPTER 9

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE SURFACE TRANSPORTATION DEPARTMENT

CHIEF SURFACE LINE DISPATCHERS

Rule 121.

(a) Chief surface line dispatchers will report to the superintendents and assistant superintendents (Surface Transportation).

(b) They are responsible, under such supervision, for the efficient operation of an assigned location or division of Surface Transportation, the safe and proper operation of all buses and the performance of personnel assigned to such location or division.

(c) They will plan the movement of buses during usual and unusual conditions, plan and supervise the collection of revenue, prepare and issue approved specific rules and orders and they will investigate, study and make recommendations in connection with accidents and complaints.

(d) They will supervise studies of traffic conditions and adequacy of service and will make recommendations to assist in the preparation of schedules.

(e) They are responsible for the maintenance of necessary departmental records.

(f) They are responsible for the proper administration of prescribed disciplinary procedures.

SENIOR SURFACE LINE DISPATCHERS

Rule 122.

(a) Senior surface line dispatchers will report to chief surface line dispatchers.

(b) Under such supervision, they are responsible for the safe and proper operation of all buses at the location to which they are assigned.

(c) They will supervise, control and expedite the movement of buses.

(d) They are responsible for the supervision of all subordinate operating personnel at their respective locations.

(e) They are responsible for the proper handling of all revenue at their locations and for investigations of accidents, complaints, delays and operational equipment failures and must submit necessary reports.

(f) They are responsible for the proper administration of prescribed disciplinary procedures, when required.

SURFACE LINE DISPATCHERS

Rule 123.

(a) Surface line dispatchers will report to senior surface line dispatchers.

(b) At Surface Transportation locations they have charge of the assignment of surface line operators and buses, keeping accurate records of the time worked by

hourly paid Surface Transportation employees and of the mileage of buses. They must keep records of absent Surface Transportation employees and maintain personnel records. They must see that employees under their jurisdiction are in fit condition for duty and in proper uniform. They must not assign an unfit employee to duty. They must remove any unfit employee from service and report such unfitness immediately to the Surface Control Office.

(c) At the Central Dispatch Office they are responsible for the transmission of orders, by telephone and radio, for the emergency rerouting of buses and of patrol cars and emergency trucks; they must report accidents and unusual occurrences by telephone and transmit reports thereof for distribution to the various department heads. They must keep a running record of delays to service and the reasons therefor.

(d) They are responsible for the operation of buses in accordance with prescribed schedules within the territory to which they are assigned and must clear blockades and restore normal operation when delays occur. They must report frequently by telephone or radio and must make accurate, complete daily written reports of the activities on the routes under their supervision and of all accidents and unusual occurrences of which they have information. They must assist in loading buses and check service and loads on buses at points designated by their supervisors.

(e) They have supervision of the conduct and performance of surface line operators and must report infractions of the rules or of special instructions.

(f) They must ride buses frequently and note the manner in which surface line operators perform their duties and correct any improper actions.

(g) They must conduct, as required, a school of instructions on bus equipment and bus operation for such employees as shall be designated by the proper authorities.

SCHEDULE MAKERS (SURFACE)

Rule 124.

(a) The employee designated in charge of the Schedule Section will report to the General Superintendent (Surface) and is responsible for the assignment of schedules to the various bus routes.

(b) Schedule makers will report to the employee designated in charge of the Schedule Section.

(c) They are responsible for the planning and making of schedules for the operation of buses.

SURFACE LINE OPERATORS

Rule 125.

(a) Surface line operators will report to superintendents and assistant superintendents (Surface Transportation); in addition, they are subject to orders from chief surface line dispatchers, senior surface line dispatchers and surface line dispatchers.

(b) They are responsible for the safe operation, regularity and proper care and condition of their buses.

(c) They must take every precaution for the safety of passengers and pedestrians.

(d) They must familiarize themselves with the rules

and regulations and special instructions governing operation of buses and see that they are properly executed.

(e) They are held accountable for the collection of fares from all persons boarding their buses, except those specifically authorized to ride free by Rule 24.

(f) They must remit all monies, tokens, tickets, transfers etc. received through the medium of their fare boxes or otherwise in payment of fares and submit all reports pertaining thereto in the prescribed manner.

(g) They must not deposit any fares or monies in fare boxes. Fares must be deposited only by passengers. Any fares or monies not deposited by passengers must be remitted as unregistered fares. They must return to the passenger the full change for coins or bills tendered to them for change.

(h) They must not tamper with seals on fare boxes and must always make certain that such seals are in proper condition before taking a bus into service or when making reliefs.

(i) Failure to comply, in any respect with any of the provisions of subdivisions (e), (f), (g) and (h) of this rule will be deemed prima facie evidence of mishandling of revenue.

(j) They must make reliefs only at designated relief points and at the times specified in schedules, unless otherwise instructed by proper authority. They must never leave their bus until properly relieved and must not, under any circumstance, surrender bus another employee apparently unfit for duty.

(k) They must see that proper route and destination signs are displayed.

(l) They must keep doorways, aisles and passageways clear of all obstructions.

(m) If a passenger becomes disorderly, annoying or dangerous, such passenger must be asked to leave the bus at the next designated bus stop and, upon refusal to do so, must be ejected in compliance with Rule 27.

(n) Any equipment trouble which immobilizes a bus or would affect continued operation of the bus must be promptly reported by telephone to the Central Dispatch Office.

(o) When a fare box is out of order, they must report the trouble by telephone at the first opportunity to the Central Dispatch Office or to a member of the supervisory force.

(p) They must supply themselves with a reasonable amount of change before starting work and must change coins or bills in the denomination of ($2.00) dollars, or less. They must make change without any discourtesy or any show of dissatisfaction or dipsleasure.

(q) They must compare the reading on the register card with the register readings on the fare box before taking a bus into service and must immediately report any differences to the dispatcher at their location. When making reliefs on the road the surface line operator making the relief must compare the closing readings on the register card with the readings on the fare box. Any discrepancies must be adjusted by the operator being relieved.

(r) They must be thoroughly familiar with the transfer privileges of the routes on which they operate and with the transfer privileges of interecting and/or connecting routes.

Exhibit 58

CHAPTER 10

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE MAINTENANCE OF WAY DEPARTMENT

FOREMEN

Rule 126.

(a) Foremen will report to the members of the supervisory staff to whom they are assigned.

(b) They are in direct charge of forces engaged in the installation, inspection, testing, repair and maintenance of such structures, tracks and equipment as are assigned to them.

(c) They must make regular inspections and reports of the foregoing work.

(d) In case of an accident they must make an immediate inspection of the property involved in the accident and report thereon.

(e) They must submit reports as directed or as required and compile records of cost, time and material, material requisition, accidents and unusual occurrences, including preparation of data of maintenance and railroad operation.

INSPECTORS

Rule 127.

(a) Inspectors will report to the members of the supervisory staff to whom they are assigned.

(b) They are responsible for the inspection of such structures, tracks and equipment as are assigned to them.

MAINTAINERS

Rule 128.

(a) Maintainers will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They are responsible for the installation, inspection, testing, repair and maintenance of such structures, tracks and equipment as are assigned to them.

(c) They must, before inspecting, testing or repairing such structures, tracks or equipment as are assigned to them but which are operated by or are in the charge of employees in other departments or sections, consult with such employees as to such existing conditions as might interfere with, or be interfered with by, such inspection, testing or repair.

TRACKMEN AND TRACKMEN (SPECIALISTS)

Rule 129.

(a) Trackmen and trackmen (specialists) will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) Trackmen will install, inspect, repair and maintain tracks, including the tightening of bolts, the replacement of rails, special work, ties, ballast, rail fastenings and of insulated joints, tamping, cleaning and snow removal.

(c) Trackmen and trackmen (specialists) will clear the tracks in case of accidents and will perform such other work in shops, or yards or on the trainways as may be required in connection with the operation of the System.

(d) Trackmen (Specialists) will operate, service, repair and maintain Maintenance of Way Department work equipment used in any connection with track.

PRINCIPAL TELEPHONE OPERATOR

Rule 130.

(a) The principal telephone operator will report to the members of the supervisory staff to whom he (she) is assigned.

(b) He (she) is responsible for the planning and coordinating of the assignments of all supervising telephone operators, senior telephone operators and telephone operators.

(c) He (she) will supervise the training program for telephone operators and will make any and all studies and reports as required.

SUPERVISING TELEPHONE OPERATORS

Rule 131.

(a) Supervising telephone operators will report to the members of the supervisory staff to whom they are assigned and to the principal telephone operator.

(b) They are responsible for the efficiency of the telephone service and for the conduct and discipline of senior telephone operators and of telephone operators.

(c) They must familiarize themselves with the organization of the System and the general scope of the work of all departments.

(d) They must keep the required number of senior telephone operators and of telephone operators on duty at all times to handle the telephone business promptly.

(e) They must have a thorough knowledge of the operation of the conference plan.

SENIOR TELEPHONE OPERATORS

Rule 132.

(a) Senior telephone operators will report to the members of the supervisory staff to whom they are assigned to the principal telephone operator and to supervising telephone operators.

(c) They must assist and relieve telephone operators at switchboards and act as assistants to supervising telephone operators, taking full charge in their absence.

(d) They must have a thorough knowledge of the operation of the conference plan.

Exhibit 58

TELEPHONE OPERATORS

Rule 133.

(a) Telephone operators will report to the members of the supervisory staff to whom they are assigned, to the principal telephone operator, to supervising telephone operators and to senior telephone operators.

(b) They must be courteous at all times and speak in clear tones directly into the transmitter.

(c) They must, when commencing their tours of duty, make such tests as are necessary to detect defective cords, instruments or loops and immediately report to senior telephone operators such defects as are detected by such tests.

Exhibit 58

CHAPTER 11

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE POWER DEPARTMENT

FOREMEN

Rule 134.

(a) Foremen will report to the members of the supervisory staff to whom they are assigned.

(b) They are in direct charge of forces engaged in the maintenance, installation, inspection, testing, alteration, adjustment, repair and operation of such power equipment as is assigned to them.

(c) They must make regular inspections and reports of the foregoing work.

MAINTAINERS

Rule 135.

(a) Maintainers will report to the members of the supervisory staff to whom they are assigned. They are also subject to orders of foremen.

(b) They will maintain, install, inspect, test, alter, adjust, repair and operate such power equipment as is assigned to them.

(c) They must make reports of their work when required.

(d) They must, before inspecting, testing or repairing such power equipment as is assigned to them but which is operated by or is in the charge of employees in other departments or sections consult with such employees as to such existing conditions as might interfere with, or be interefered with by, such inspection, testing or repair.

Exhibit 58

CHAPTER 12

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE CAR MAINTENANCE DEPARTMENT

FOREMEN

Rule 136.

(a) Foremen will report to the members of the supervisory staff to whom they are assigned.

(b) Foremen are in direct charge of forces engaged in the maintenance, overhauling, installation, inspection, testing, alteration, adjustment and repair of cars and car equipment and of forces engaged in the repair of car shops and shop equipment. They are in charge of forces engaged in the cleaning of cars and of car shops and shop equipment.

(c) They must make regular inspections and reports of the work of which they are in direct charge.

ASSISTANT FOREMEN (CAR CLEANING)

Rule 137.

(a) Assistant foremen (car cleaning) will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They are in direct charge of forces engaged in the cleaning of both the interiors and exteriors of cars, as well as of car parts. The are also in direct charge of forces engaged in the cleaning of car shops and shop equipment.

MAINTAINERS

Rule 138.

(a) Maintainers will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They will maintain, overhaul, install, inspect, test, alter, adjust and repair any cars and car shop equipment assigned to them.

ROAD CAR INSPECTORS

Rule 139.

(a) Road car inspectors will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They will detect trouble on any part of a disabled train and must make such repairs, adjustments or replacements as are necessary to enable such train to continue in service or to enable it to be moved to a siding or terminal. They must, when such repairs, adjustments or replacements have been completed, inform the motorman of the train and the ranking supervisory employee of the Rapid Transit Transportation Department present of the condition of the train and the nature and extent of such repairs, adjustments or replacements.

(c) They must promptly respond to the whistle or horn signals set forth in Rules 56 (c) and 57 (e), ascertain the reason therefor and make such repairs, adjustments or replacements, when possible, as are necessary to restore car equipment to proper operating condition.

(d) They will examine, test, adjust and repair car equipment in accordance with their assignments.

(e) They must, when so assigned, assist in making up of trains for service.

(f) They must keep records and submit reports when required.

(g) They must cooperate with the Assistant General Superintendent (Rapid Transit Transportation), with superintendents (rapid transit transportation), with trainmasters, assistant trainmasters, motormen instructors, assistant motormen instructors, train dispatchers, yardmasters and assistant train dispatchers.

CAR INSPECTORS

Rule 140.

(a) Car inspectors will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They must examine, test, adjust, repair and maintain car equipment in accordance with their assignments.

(c) They must, when so assigned, assist in the making up of trains for service.

(d) They must keep records and submit reports when required.

Exhibit 58

CHAPTER 13

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE SURFACE MAINTENANCE DEPARTMENT

FOREMEN

Rule 141.

(a) Foremen will report to the members of the supervisory staff to whom they are assigned.

(b) They are in direct charge of forces engaged in the maintenance, installation inspection, testing, alteration, adjustment, and repair of such automotive equipment as may be assigned to them.

(c) They must make regular inspections and reports of the foregoing work.

BUS MAINTAINERS "A"

Rule 142.

(a) Bus maintainers "A" will maintain, install, inspect, test, alter, adjust, paint and repair the bodies and associated mechanical, structural and electrical equipment of buses and other automotive vehicles, including: doors, seats, windows, framing, sheeting, hand bars, signs, floors, bumpers, light fixtures and headlights; they will make and repair sheet metal parts of buses using such tools and machines as are necessary; they will weld bus bodies and parts.

(b) They will, when required, keep records.

BUS MAINTAINERS "B"

Rule 143.

(a) Bus maintainers "B" will maintain, install, inspect, test, alter, adjust and repair the electrical, mechanical, hydraulic and pneumatic equipment of buses and other automotive vehicles, including: engines, clutches, transmissions, axles, generators, compressors, brake assemblies and electrical accessories; they will diagnose troubles and irregularities and make the necessary repairs or adjustments.

(b) They must be qualified to and must operate motor vehicles, including buses.

(c) They will, when required, keep records.

Exhibit 58

DUTIES AND RESPONSIBILITIES OF EMPLOYEES IN THE SPECIAL INSPECTION DEPARTMENT

DIRECTOR OF SPECIAL INSPECTIONS

Rule 144.

(a) The Director of special Inspections will report to the General Manager.

(b) He is responsible for the work of observation and investigation and will report as to the manner in which Authority employees and certain other persons perform their duties and as to such conditions of service on the various Authority operated transit facilities as affect the property and safety of the public, of the Authority and of the employees of the Authority.

(c) He is responsible for and exercises supervision over all matters pertaining to the guarding and the protection from fire, theft, vandalism and unauthorized entrance of the property of the Authority.

SUPERVISORY EMPLOYEE IN CHARGE (INVESTIGATIONS AND INSPECTIONS)

Rule 145.

(a) The Supervisory Employee in Charge (Investigations and Inspections) will report to the Director of Special Inspections.

(b) He is responsible to the Director for the supervision of such investigations and inspections as may be assigned to him by the Director and must see that the special inspectors are instructed in their duties and that they perform their duties properly. He is also responsible to the Director for the good order, efficiency and discipline of the special inspectors.

SUPERVISORY EMPLOYEE IN CHARGE (PROPERTY PROTECTION)

Rule 146.

(a) The Supervisory Employee in Charge (Property Protection) will report to the Director of Special Inspections.

(b) He is responsible to the Director for the proper assignment of personnel for the purpose of guarding and protecting from fire, theft, vandalism and unauthorized entrance such Authority properties as may be designated by said Authority and must see that foremen (railroad watchmen) and railroad watchmen are instructed in their duties and that they perform their duties properly. He is also responsible to the Director for the good order, efficiency and discipline of the Property Protection Section.

SPECIAL INSPECTORS

Rule 147.

(a) Special inspectors will report to the Director of Spe-

cial Inspections and the Supervisory Employee in Charge (Investigations and Inspections).

(b) Under the direction of their superiors they will observe, investigate and report as to the manner in which Authority employees perform their duties and as to such conditions of service on the various Authority operated transit facilities as affect the property and safety of the public, of the Authority and of the employees of the Authority.

(c) They must investigate such complaints or other matters and make such inspections as may be assigned to them by their superiors.

FOREMEN (RAILROAD WATCHMEN)

Rule 148.

(a) Foremen (Railroad Watchmen) will report to the Director of Special Inspections and the Supervisory Employee in Charge (Property Protection).

(b) They must report "ON" and "OFF" Duty to the Special Inspection Control Desk and carry out all regular and special orders that they may receive from same.

(c) They must make entry on their Daily Work Sheets of the times of their arrival at and times of their departure from each post they visit. They must inspect Registry and Control Sheets to determine whether entries are in proper time sequence. They must inspect clock tapes and, if clock winds are incomplete, must make proper entries on said tapes and on their work sheets. They must check the condition of railroad watchmens' booths and the condition of Authority property under the jurisdiction of the Special Inspection Department. The condition of both must be noted on their work sheets. Said work sheets must be forwarded to the office of the department daily.

(d) They must also enter on their Daily Work Sheets the name of the superior and/or employee in charge of the Special Inspection Control Desk.

(e) They are responsible for the posting of Post Orders and all special orders or bulletins at each post location in their respective sectors and must see that each post location is adequately supplied with the stationery necessary for its efficient operation.

(f) They must make complete investigations of all unusual occurrences involving the guarding and the protection of the property of the Authority and forward reports to the office as soon thereafter as possible BUT must make telephone reports of same to the office at the time of the discovery of such occurrences.

(g) They are responsible for the conduct and performance of all railroad watchmen in their respective sectors and must report all infractions of the rules.

(h) They must remove from duty such railroad watchmen as they find unfit for duty and report same to the Special Inspection Control Desk.

RAILROAD WATCHMEN

Rule 149.

(a) Railroad watchmen will report to the Director of Special Inspections and to the Supervisory Employee in Charge (Property Protection). They are also subject to the orders of foremen (railroad watchmen) and of the employees assigned to the Special Inspection Control Desk.

Exhibit 58

(b) They must be attired in the prescribed uniform with badge displayed at all times while on duty.

(c) They must patrol and protect System properties against fire, theft, vandalism and unauthorized entrance.

(d) They must make complete investigations of all unusual occurrences involving the guarding and the protection of the property of the Authority and forward reports to the office as soon thereafter as possible BUT must make telephone reports of same to the office at the time of the discovery of such occurrences.

(e) They must treat as confidential official business of their Department. They must not talk for publication nor be interviewed nor shall they otherwise impart information relative to official business of their department to any except by permission of the Director.

(f) They are responsible for all equipment and other property entrusted to them and they must see that such equipment is kept in good condition.

(g) In addition to reporting to the Special Inspection Control Desk when going "ON" and "OFF" duty, they must make hourly calls as prescribed in respective post orders.

(h) They must make clock winds as prescribed in their respective post orders and must not abandon a clock wind or part of a clock wind without first contacting the Special Inspection Control Desk or their foremen for permission to do so.

Exhibit 58

CHAPTER 15

DUTIES AND RESPONSIBILITIES OF EMPLOYEES VARIOUSLY ASSIGNED

MAINTAINERS

Rule 150.

(a) Maintainers whose duties and responsibilities are not elsewhere herein set forth will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They will maintain, install, inspect, test, alter, adjust and repair such equipment as is assigned to them.

(c) They must make reports on their work when required.

(d) They must be qualified to and must operate such types of motor vehicles, including buses, as are necessary in connection with their duties.

HELPERS

Rule 151.

(a) Helpers will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of the foremen, maintainers, road car inspectors to whom they are assigned.

(b) They must assist the employee to whom they are assigned in the proper performance of his duties.

(c) They will, when so directed, handle materials and supplies and operate material handling equipment.

(d) They will, when required, keep records of cars, trucks, buses or of any other equipment used, operated, serviced or maintained by the department to which they are assigned.

(e) They must be qualified to and must operate cranes, tractors or such types of motor vehicles, including buses, as are necessary in connection with their duties.

MOTOR VEHICLE OPERATORS

Rule 152.

(a) Motor vehicle operators will report to the members of the supervisory staff to whom they are assigned.

(b) They are responsible for the safe operation of automobiles in their charge and are required to keep such automobiles in first class condition.

(c) They must, when directed, operate all devices on the automobile such as winches, cranes etc., and assist in loading and unloading the automobile.

CAR CLEANERS

Rule 153.

(a) Car cleaners will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen, and assistant foremen.

(b) They must perform all functions in connection with

the scheduled and unscheduled cleaning of the interiors and exteriors of cars and buses.

(c) They must remove all trash, debris, newspapers etc., from the cars or buses they are assigned to clean and must deposit same in the receptacles provided for this purpose; their attention is particularly called to Rule 11 (q).

(d) They must cooperate with train dispatchers, yardmasters and assistant train dispatchers in matters concerning the cleanliness of trains scheduled to operate in road service.

(e) They must, when assigned to cleaning cars in yards or on storage tracks, lock the doors of motormen's cabs and close all storm doors of the cars they are assigned to clean.

(f) They must, when so directed, handle materials and supplies and operate material handling equipment.

(g) They must, when so directed, keep records.

RAILROAD CARETAKERS

Rule 154.

(a) Railroad caretakers will report to the members of the supervisory staff to whom they are assigned. They are also subject to the orders of foremen.

(b) They are charged with the responsibility of keeping their assigned locations in a clean and sanitary condition at all times and are accountable for the proper performance of all duties affecting the cleanliness of their assigned locations as well as for the proper performance of those duties specifically assigned to them by schedule or otherwise.

(c) They must not leave any supplies, tools, equipment or other articles (including dust pans, brooms, buckets, soap etc.) on any stairway, in any passageway or walkway, or in any other place in any building of the System which may result in a hazard to employees or others.

(d) They must not place a private lock on any room or closet where supplies or equipment are kept and they must not, with intent to secrete same, place supplies or equipment where they cannot be found by other employees or by supervision.

RAILROAD STOCK ASSISTANT

Rule 155-A.

(a) Railroad Stock Assistants will report to and receive instructions from the Railroad Stockman and Foreman (Stores, Materials and Supplies) and the supervisory staff to whom they are assigned.

(b) They will receive, check, classify, store and distribute materials and supplies at the central storerooms of the transit system including loading and unloading trucks, unpackng, counting, sorting, marking and placing materials and supplies received, filling requisitions.

(c) They must assist the employee to whom they are assigned in the proper performance of duties.

Exhibit 58

RAILROAD STOCKMAN

Rule 155-B.

(a) Railroad Stockmen will report to and receive instructions from the Foreman (Stores, Materials and Supplies) and the supervisory staff to whom they are assigned.

(b) They will receive, check, classify, store and distribute materials and supplies at the central storerooms of the transit system, including loading and unloading trucks, unpacking, counting, sorting, marking and placing materials and supplies received, filling requisitions, taking inventory and handling of obsolete and scrap material.

(c) They will, if assigned, perform inspection work on new equipment and material at manufacturing plants.

(d) They must keep records.

FOREMAN (STORES, MATERIALS AND SUPPLIES)

Rule 155-C

(a) Foremen will report to and receive instructions from the members of the supervisory staff to whom they are assigned.

(b) The foreman will have charge of and be directly responsible for the forces engaged in the receipt, checking, classification, storage and distribution of materials and supplies at the central storerooms of the transit system, including loading and unloading trucks, unpacking, counting, sorting, marking and placing materials and supplies received, filling requisitions, taking inventory, and handling of obsolete and scrap material; make payments of freight charges and other authorized disbursements.

(c) They will, if assigned, perform inspection work on new equipment and material at manufacturing plants.

(d) They must make regular inspections and prepare reports on the work for which they are in charge and for which they are directly responsible.

Exhibit 58

INDEX

A

RULE		PAGE
5 (a), (c)	Absence from Duty	3, 4
5 (c)	Absence, Reporting	4
88	Accident Reports Confidential	107
52	Accidents, Fire, Flood	41
90	Accidents to Employees	108
2	Address and Telephone Numbers	1
16	Advertising Matter	13
45	Alarm System	37, 38
11 (a-1), (a-2)	Alcohol	6
11 (b)	Amphetamine Group Drugs	7
164	Annual Vacation Allowance	See Part III
1	Appointments to Positions	1
21	Arrest of Employee; Subpoenas or Other Process; Testimony in Action or Proceedings; Unauthorized Inspection of Equipment	15
29	Articles Not to be Carried on Trains or Buses	18
17	Assignment of Wages	13
1	Assignment to Work	1
39	Automatic Starting Signal	33, 34
24	Authorized Free Riders; Identification Passes	16, 17

B

11 (b)	Barbiturates or Barbiturate Derivatives	7
28	Begging	18
78	Brakes (Bus)	101
40	Brakes, Cutting Out	34, 35
42	Brakes, Emergency Valve	36
53	Brakes, Hand	42, 43
40 (g), 53 (e)	Brakes In Emergency, Undesired	35, 43
46	Breaking Apart of Train	38
32	Bulletin Boards	20, 21
83	Buses Passing Buses	104

C

37 (j), (k)	Call-On Signal	29, 30
49 (d), (e)	Cab Doors, Motormen	40
79, 81 (w)	Central Dispatch Office (Surface)	101, 102, 103

INDEX (Continued)

RULE		PAGE
125 (m)	Central Dispatch Office (Surface)	132
125 (o)	Central Dispatch Office (Surface)	132
11	Certain Acts of Employees Prohibited	6, 7, 8
12	Code of Ethics	8, 9, 10
10	Conduct of Employees	5, 6
39	Conductor's Indication	33
5 (c)	Control Office	4
20 (a)	Control Office	15
91 (a)	Control Office	109
45	Control Of Power	37
48	Coupling and Uncoupling Cars	39
40	Cutting Out Brakes	34, 35
	D	
37 (e), (v)	Dark Signals or Lights	26, 32
37	Defective Signals	26, 27, 28, 29, 30, 31, 32, 33
9	Demotions	5
14 (c), (j)	Desk Trainmaster	12, 13
19 (c), (d), (e) (f), (h)	Desk Trainmaster	14
30	Desk Trainmaster	18, 19
36 (l)	Desk Trainmaster	24, 25
37 (e), (h), (r), (l), (m), (o), (p), (q)	Desk Trainmaster	26, 27, 30, 31
38 (a)	Desk Trainmaster	33
39 (d)	Desk Trainmaster	34
40 (c), (f)	Desk Trainmaster	35
41 (a)	Desk Trainmaster	35
42 (b)	Desk Trainmaster	36
43 (a), (d)	Desk Trainmaster	36, 37
45 (b), (d)	Desk Trainmaster	38
47 (c)	Desk Trainmaster	39
51 (b)	Desk Trainmaster	41
52 (a), (b), (c)	Desk Trainmaster	41, 42
53 (e)	Desk Trainmaster	43
49	Desk Trainmaster	40
66 (b)	Desk Trainmaster	76
72 (l)	Desk Trainmaster	81
74 (c) 4	Desk Trainmaster	84
74 (c) 8	Desk Trainmaster	86
77 (f)	Desk Trainmaster	88
91 (a)	Desk Trainmaster	109
106 (e)	Desk Trainmaster	116
36 (l), 40, 46, 37	Destination and Route Signs	24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 38

INDEX (Continued)

RULE		PAGE
36 (l), 39, 40,	Disabled Trains	24, 25, 33, 34, 35
43, 47, 52 (e)	Discharge Passengers, When To	36, 37, 38, 39, 43
39	Door Problems	33, 34
4 (g)	Dual Employment	3
115	Duties and Responsibilities of Employees Auditors	125
137	Assistant Foremen (Car Cleaning)	137
94	Assistant General Superintendents	110
102	Assistant Motormen Instructors	113
114	Assistant Station Supervisors	125
96	Assistant Superintendents	111
98	Assistant Supervisors	111
105	Assistant Train Dispatchers	115
99	Assistant Trainmasters	112
142	Bus Maintainers "A"	139
143	Bus Maintainers "B"	139
153	Car Cleaners	143, 144
140	Car Inspectors	138
100	Chief Schedule Maker (Rapid Transit)	112
121	Chief Surface Line Dispatchers	130
116	Collecting Agents	126
107 (z)	Conductors Assigned as Handswitchmen	120
108	Conductors Assigned to Platform Duty	121
107	Conductors Assigned to Train Service	118, 119, 120, 121
144	Director of Special Inspections	140
136	Foremen, Car Maintenance	137
126	Foremen, Maintenance of Way	133
134	Foremen, Power	136
148	Foremen, Railroad Watchmen	141
155-C	Foreman (Stores Materials and Supplies)	145
141	Foremen, Surface Maintenance	139
113	Foreman, Turnstiles	125

Exhibit 58

INDEX (Continued)

RULE		PAGE
92	General Manager	110
93	General Superintendent (Surface)	110
151	Helpers	143
127	Inspectors, Maintenance of Way	133
138	Maintainers, Car Maintenance	137
128	Maintainers, Maintenance of Way	133
135	Maintainers, Power	136
150	Maintainers Variously Assigned	143
152	Motor Vehicle Operators	143
106	Motormen	115, 116, 117
102	Motormen Instructors	113
130	Principal Telephone Operator	134
154	Railroad Caretakers	144
117	Railroad Clerks	126, 127
118	Railroad Clerks Assigned to Gate or Patrol Duty	128
119	Railroad Porters	128, 129
120	Railroad Porters Assigned to Other Departments	129
155-A	Railroad Stock Assistant	144
155-B	Railroad Stockman	145
149	Railroad Watchmen	141, 142
139	Road Car Inspectors	137, 138
101	Schedule Makers (Rapid Transit)	113
124	Schedule Makers (Surface)	131
122	Senior Surface Line Dispatchers	130
132	Senior Telephone Operators	134
147	Special Inspectors	140, 141
112	Station Supervisors	124
111	Superintendent (Stations)	123, 124
95	Superintendents	111
131	Supervising Telephone Operators	134
97	Supervisors	111
145	Supervisory Employee in Charge (Investigations and Inspections)	140

INDEX (Continued)

RULE		PAGE
146	Supervisory Employee in Charge (Property Protection)	140
123	Surface Line Dispatchers	130, 131
125	Surface Line Operators	131, 132
133	Telephone Operators	135
109	Towermen	121, 122
129	Trackmen, Trackmen (Specialists)	133, 134
103	Train Dispatchers	113, 114
99	Trainmasters	112
104	Yardmasters	114, 115

E

27	Ejectment of Passenger; Report Thereof	17
19 43 (c), 45	Emergency Alarm System	14, 36, 38
40 (g), 53 (e)	Emergency Application of Brakes, Undesired	35, 43
42	Emergency Brake Valve	36
43, 52 (e)	Emergency Discharge of Passengers	36, 37, 42
52 (e)	Emergency Exits	42
4 (h)	Employees Assigned to Distribute Pay Checks and Identification Cards	3
23	Employees Dismissed from Service Not To Enter upon System Property	16
44	Employees Going Between or Under Cars	37
10 (h)	Employees Must Give Names	6
10 (f)	Employees' Physical Appearance While on Duty	6
11	Employees, Prohibited Acts	6, 7, 8
52 (c-e), 43 85, 86	Employees to Guard Passengers	42, 36, 37, 106
87, 88, 90	Employees to Make Written Reports of Accidents or Unusual Occurrences	106, 107, 108
4 (b)	Employees to Perform Such Duties as Superiors Direct	2
4 (g)	Employment Outside of Authority	3
36	Extra Train, Defined, Precedes Rule	23, 24, 25

INDEX (Continued)

RULE		PAGE
	F	
45	Failure of Power	37, 38
6 (c)	False Entries on Time Records	4
22	Familiarity with Metropolitan Area	16
20	Fan Operation and Control	15
49	Fans	40
107 (aa), (ab), (ac), (ad), (ae), (af)	Fare Collection and Remittance of Revenue etc.	120, 121
117 (b), (c), (d)	Fare Collection and Remittance of Revenue etc.	126
125 (e), (f), (g), (h), (i)	Fare Collection and Remittance of Revenue etc.	132
52	Fire	41, 42
91	First Aid Kits and Stretchers	109
64 (f)	Fixed Stop—Figures 43, 44	52
37 (d), 36 (l)	Flagging, Personnel Assigned	26, 24, 25
66 to 77, (incl.)	Flagging Rules	76 to 88
69	Caution Lights and Flags	78, 79
77	Employees Entering upon Track	87, 88
73	Flagging Procedure	81, 82, 83
67	Flagging Signal Colors and Use Thereof	77
68	Flagging Signals	77, 78
75	Individual Pairs and Small Groups Moving From Point to Point	86
74	Lights and Flags; Required Equipment and Procedure	83, 84, 85, 86
71	Location of Caution and Proceed Lights and Flags	79, 80
72	Portable Train Stops	80, 81
70	Proceed Lights and Flags	79
66	Responsibilities	76, 77
76	Special Instructions to Motormen and Others	87
37 (g), (u), (v), (w)	Flags on Tracks	27, 32
52	Floods	41, 42
51	Fog, Rain, Ice & Snow	41

INDEX (Continued)

RULE		PAGE
34	Fund Raising	21, 22
87	Further Facts to be Included in Reports	106, 107
	G	
118	Gate Duty, Railroad Clerks	128
4	General Duties and Obligations of Employees	2, 3
39	Guard Lights	33, 34
	H	
53	Handbrakes	42, 43
107 (z)	Handswitchmen, Conductors assigned as	120
49	Heaters	40
165	Holidays	See Part III
	I	
17 (b)	Income Executions (Garnishees)	13
24 (h)	Identification Passes	17
36 (a)	Incompetence, Misconduct	23
56	Interlocking Rules (Referred to in Rule 61 (a)	45
39	Indication, Motorman's and Conductor's	33, 34
57 (h)	Interlocking Rules (Referred to in Rule 61 (a)	45
60	Interlocking Rules (Referred to in Rule 61 (a)	46
62 (g)	Interlocking Rules (Referred to in Rule 61 (a)	48
63 (b), (c), (d)	Interlocking Rules (Referred to in Rule 61 (a)	50
65 (c), (e)	Interlocking Rules (Referred to in Rule 61 (a)	52, 53
69 (d), (e), (g)	Interlocking Rules (Referred to in Rule 61 (a)	78, 79
70 (b)	Interlocking Rules (Referred to in Rule 61 (a)	79
73 (c), (f), (g)	Interlocking Rules (Referred to in Rule 61 (a)	81, 82, 83

INDEX (Continued)

RULE		PAGE
77 (f)	Interlocking Rules (Referred to in Rule 61 (a)	88
106 (e)	Interlocking Rules (Referred to in Rule 61 (a)	116
109 (b), (c), (d), (e), (f), (i), (j), (k), (l), (m)	Interlocking Rules (Referred to in Rule 61 (a)	122
90, 157	Injury on Duty	108 See Part III
14	Instructions in Use of Fire Extinguishers	12, 13
	J	
159	Jury Duty	See Part III
	K	
50	Knife Switch, Main	40
3	Knowledge of Rules	1, 2
	L	
5 (b)	Lateness	4
36 (m), 37 (r), 48	Laying Up Cars and Trains	25, 31, 39, 40
5 (a), 160	Leaves of Absence for Death in Family	3, 4 See Part III
163	Leaves of Absence to Work Outside Authority's Employ	See Part III
158	Leaves of Absence With Pay	See Part III
162	Leaves of Absence Without Pay	See Part III
4 (i)	Licenses, Required by Employees	3
37 (e), (g), (s), (t), (u), (v), (w)	Lights and Flags on Tracks, Missing Lights	26, 27, 31, 32
29 (f), 30	Lost Articles	18, 19
	M	
50	Main Knife Switch	40
31	Medical Examinations	19, 20
22	Metropolitan Area, Familiarity with	16
35 81 (z)	Misconduct; Incompetence	22, 103
36 (a), 107 (t)	Misconduct; Incompetence	23, 119

INDEX (Continued)

RULE		PAGE
107, (ae),	Mishandling of Revenue ..	120, 121
125 (i)	Mishandling of Revenue ..	132
37 (e), (t) (v), (s)	Missing Signals	26, 32, 31
49 (d)	Motormen's Cab Doors	40
39	Motorman's Indication	33, 34
81	Movement of Buses	102, 103, 104
37 (s), (t), 38	Movement of Trains, Against Traffic	31, 32, 33
36	Movement of Trains; Speed Restrictions	23, 24, 25
37	Movements within Interlockings	26, 27, 28, 29, 30, 31, 32, 33
36 (b)	Moving Cars, Who May Do So	23
40 (d), 53 (g)	Moving Cars, With Brakes or Motors Cut Out	35, 43
36 (m), (n), 37 (r)	Moving Cars, In Yards and Shops	25, 31
48	Moving Cars, Coupling and Uncoupling	39, 40
53	Moving Cars, Hand Brakes	42, 43

N

11 (b)	Narcotics	7

O

4 (b), 107 (b)	Obedience to Orders	2, 118
3 (c)	Obedience to Rules	1
15	Oils and Oily Wastes	13
21 (b)	Opinion Evidence by Employee as Expert	15
36 (c)	Overrunning Station Platform	23

P

11 (b)	Paraphernalia Used to Administer Narcotics or Barbiturate Derivatives	7
37 (r), 53	Parking Trains on Sidings Or In Yard	31, 42
27	Passenger, Ejected	17
43, 52 (e)	Passengers Leaving Trains, Enroute, In Emergency	36, 37, 42
36, 43, 47, 52 (e)	Passengers Leaving Train, When Required	36, 37, 39, 42
43 (c)	Passengers Leaving Train, Without Permission	36

INDEX (Continued)

RULE		PAGE
80	Passenger Stops; Unusual Stops (buses)	101
89	Passengers Unable to Care for Themselves	108
24 (d), (e), (f), (h), (i), 156	Passes	See Part III
24 (d)	Passes, Employees Must Exhibit	16
107 (d)	Patrolling of Trains by Conductors	118
4 (h)	Paychecks, Distribution of	3
161	Payment for Attendance at Civil Service Examinations	See Part III
7	Payrolls of Employees Paid Bi-Weekly	4, 5
28	Peddling and Begging	18
35	Penalty for Misconduct and/or Incompetence	22
34	Political Assessments or Contributions	21, 22
51	Poor Vision, Bad Weather and Slippery Rails	41
45	Power, Removal or Failure	37, 38
85	Preventing Accidents; Employees to Guard Passengers	106
9 (b), (c)	Promotions	5

R

11 (e)	Radios, Playing on Duty	7
51	Rain, Sleet, Ice, Bad Weather	41
17	Receipt or Disbursement of Money; Assignment of Wages	13
4 (h), 6	Records, Time Cards and Pay Checks of Employees	3, 4
36	Regular Train, Definition, Precedes Rule	23, 24, 25
19	Removal and Restoration of Power; Emergency Alarm System	14
45	Removing Power, From Track	37, 38
50	Removing Power, From Train	40
5	Reporting for Duty	3, 4
79	Reporting Unusual Conditions (Surface)	101
8	Reports by Employees	5

INDEX (Continued)

RULE		PAGE
9	Resignations and Re-Employment of Employees; Demotions	5
45	Restoring Power	37, 38
36	Restricted Speed with Extreme Caution, Definition, Precedes Rule	23, 24, 25
82	Reverse Movement of Bus	104
37 (s), (t), 38	Reverse Movement of Trains	31, 32, 33
36	Running Time, Definition, Precedes Rule	23, 24, 25

S

33 (b)	Schedule (Definition)	21
36	Schedule, Definition, Precedes Rule	23, 24, 25
36 (l), 40 (d), (e), 46, 47	Second Car Operation	24, 25, 35, 38
46, 47	"Second Car Operation"	38, 39
36 (c)	Short Stop At Station	23
5 (a), 166	Sick Leave	3, 4 See Part III
53 (g)	Siding, Placing Cars on	43
54 to 65	Signaling	44 to 53
61 (j)	Approach Signal — Fig. 33-38	47
64 (b)	Arm, Automatic Stop	52
59 (f)	Aspect of Signal	46
64 (d)	Automatic Release, Automatic Stop	52
60 (a)	Automatic Signal — Figs. 33-40 (incl.)	46
60	Automatic Signals	46
64	Automatic Stop	51, 52
64 (a)	Automatic Stop	51
64 (b)	Automatic Stop Arm	52
64 (d)	Automatic Stop, Automatic Release	52
64 (e)	Automatic Stop Hook	52
64 (c)	Automatic Stop, Manual Release	52
60 (b)	Block	46
63 (e)	Bumper Light — Figs. 43, 44	50
61 (k)	Call-on Signal — Fig. 11	47
59 (i)	Caution Signal	46
61 (e)	Circuit Time Release	47
59 (j)	Clear Signal	46
55	Colors, Signal	44

INDEX (Continued)

RULE		PAGE
63 (j)	Conductor's Gap Filler Indicator Signal Fig. 71	51
65 (l)	Conductor's Indicator Board Figs. 70, 70 (a)	54
61 (d)	Control Machine	47
61 (b)	Control Point or Interlocking Tower	47
62 (g)	"D" Signal—Fig. 38	48, 49
65 (c)	Diverging Route Sign — Fig. 56	52, 53
61 (h)	Dwarf Signal — Figs. 29-31 (incl.)	47
56	Emergency Whistle or Horn Signals	45
65 (i)	Employee Loading Platform (P) Sign — Fig. 65	53
65 (g)	End of Signal Control Sign — Fig. 63	53
59	Fixed Signals	46
64 (f)	Fixed Stop — Figs. 43, 44	52
65 (f)	Gap Filler Sign — Fig. 62	53
63 (g)	Gap Filler Signal — Figs. 48, 49	51
62 (b)	Grade Time Control of Signals	48
62 (e)	Grade Time (GT) Signal — Figs. 51-53 (incl.)	48
54	Hand, Flag and Light Signals	44
61 (g)	Home Signal — Figs. 4-28 (incl.)	47
64 (e)	Hook, Automatic Stop	52
59 (g)	Indication, Of a Signal	46
62 (j)	Indicator, Station Time — Figs. 40, 54	49
61	Interlocking	47, 48
61 (c)	Interlocking Machine	47
61 (f)	Interlocking Signal	47
61 (b)	Interlocking Tower or Control Point "K" Signal	47
61 (e)	Lever or Circuit Time Release	47
62 (h)	Lunar White Signal — Fig. 39	49
61 (d)	Machine, Control	47
61 (c)	Machine, Interlocking	47
64 (c)	Manual Release Automatic Stop	52

INDEX (Continued)

RULE		PAGE
61 (i)	Marker Signal — Figs. 32, 32 (a)	47
63	Miscellaneous Light Signals	49, 50, 51
65	Miscellaneous Sign Signals	52, 53, 54
65 (k)	No Clearance — Fig. 67	53, 54
54 (b)	Proceed (Hand Signal) — Fig. 2	44
65 (n)	Railroad Crossing Sign — Fig. 63 (a)	54
54 (c)	Reduce Speed (Hand Signal) — Fig. 3	44
61 (e)	Release, Circuit Time	47
61 (e)	Release, Lever Time	47
63 (h)	Repeater Signal — Figs. 50, 50 (a)	51
65 (b)	Resume Speed Sign — Fig. 55	52
65 (e)	Reverse Movement Car Stop Sign — Fig. 61	53
63 (b)	Route Request Button —Fig. 71 (a)	50
63 (c)	Route Request Telephone — Fig. 71 (b)	50
62 (f)	"S" Signal — Figs. 7, 9, 15, 19, 37	48
65 (m)	Series Sign — Fig. 57	54
65 (c)	Sign, Diverging Route — Fig. 56	52, 53
65 (i)	Sign, Employee Loading Platform (P) Fig. 65	53
65 (g)	Sign, End of Signal Control — Fig. 63	53
65 (f)	Sign, Gap Filler — Fig. 62	53
65 (k)	Sign, No Clearance — Fig. 67	53, 54
65 (n)	Sign, Railroad Crossing Fig. 63 (a)	54
65 (b)	Sign, Resume Speed — Fig. 55	52
65 (e)	Sign, Reverse Movement Car Stop — Fig. 61	53
65 (m)	Sign, Series — Fig. 57	54
65 (a)	Sign, Slow — Figs. 52, 52 (a), 57	52
65 (d)	Sign, Station Car Stop — Figs. 58-60 (incl.)	53
65 (j)	Sign, Station Platform Telephone (T) Fig. 66	53

INDEX (Continued)

RULE		PAGE
65 (h)	Sign, Stop — Fig. 64	53
62 (d)	Sign, Time Control (T) — Fig. 51	48
61 (j)	Signal, Approach — Figs. 33-38 (incl.)	47
59 (f)	Signal Aspect	46
61 (k)	Signal, Call-On — Fig. 11	47
63 (j)	Signal, Conductor's Gap Filler Indicator Fig. 71	51
55	Signal Colors	44
62 (g)	Signal, "D"—Fig. 38 ..	48, 49
61 (h)	Signal, Dwarf — Figs. 29-31 (incl.)	47
63 (g)	Signal, Gap Filler — Figs. 48, 49	51
62 (e)	Signal, Grade Time (GT) — Figs. 51-53 (incl.)	48
61 (g)	Signal, Home — Figs. 4-28 (incl.)	47
59 (g)	Signal Indication ..... Signal, "K" — Fig. 36	46
62 (h)	Signal, Lunar White — Fig. 39	49
61 (i)	Signal, Marker — Figs. 32, 32 (a)	47
63 (h)	Signal, Repeater — Figs. 50, 50 (a)	51
62 (f)	Signal, "S" — Figs. 7, 9, 15, 19, 37	48
62 (i)	Signal, Station Time (ST) — Figs. 51, 54	49
59 (h)	Signal, Stop	46
62	Signal, Time Control of	48, 49
62 (a)	Signal, Time Controlled	48
63 (d)	Signal, Train Identity — Fig. 71 (c)	50
63 (a)	Signal, Train Order — Figs. 41, 42	49
63 (i)	Signal, Train Starting or Holding — Fig. 68	51
61 (l)	Signal, Yard Indication — Fig. 10	48
37 (m-o) 60	Signals, Automatic	30, 31, 46
56	Signals, Emergency Whistle or Horn	45
59	Signals, Fixed	46
62 (b)	Signals, Grade Time Control of	48
54	Signals, Hand, Flag and Light	44
63	Signals, Miscellaneous Light	49, 50, 51
65	Signals, Miscellaneous Sign	52, 53, 54

INDEX (Continued)

RULE		PAGE
62 (c)	Signals, Station Time Control of	48
62	Signals, Time Controlled	48, 49
58	Signals, Train Buzzer	45, 46
57	Signals, Train Whistle or Horn	45
65 (a)	Slow Sign — Figs. 52, 52 (a), 57	52
65 (d)	Station Car Stop Sign —Figs. 58-60 (incl.)	53
65 (j)	Station Platform Telephone (T) Sign — Fig. 66	53
62 (c)	Station Time Control of Signals	48
62 (j)	Station Time Indicator — Figs. 40, 54	49
62 (i)	Station Time (ST) Signal—Figs. 51, 54	49
64 (f)	Stop, Fixed — Figs. 43, 44	52
54 (a)	Stop (Hand Signal) — Fig. 1	44
65 (h)	Stop Sign — Fig. 64	53
59 (h)	Stop Signal	46
63 (f)	Switch Target — Figs. 45-47 (incl.)	50
62 (d)	Time Control (T) Sign — Fig. 51	48
62 (a)	Time Controlled Signal	48
62	Time Controlled Signals	48, 49
58	Train Buzzer Signals	45, 46
63 (d)	Train Identity Signal — Fig. 71 (c)	50
63 (a)	Train Order Signal — Figs. 41, 42	49
63 (i)	Train Starting or Holding Signal — Fig. 68	51
57	Train Whistle or Horn Signals	45
61 (l)	Yard Indication Signal — Fig. 10	48
37 (h-l)	Signals, Home, Dwarf and Semaphore	27, 28, 29, 30
37 (d)	Signals, Fixed	26
37 (c), (d), (g), (u), (v), (w), 48 (f), (g)	Signals, Hand, Flag or Light	26, 27, 32, 39, 40
36 (c), (j) (m), (n), 39 (a), (c), 42 (b)	Signals, Horn, Whistle or Buzzer	23, 24, 25, 33, 34, 36
37 (h-o)	Signal, Red	27, 28, 29, 30, 31

Exhibit 58

INDEX (Continued)

RULE		PAGE
37 (a), (b)	Signals, Knowledge and Use of	26
37 (d), (e), (q), (s), (v), (w)	Signals, Missing or Wrongly Shown	26, 31, 32
37 (k), (o), (p)	Signal Stop Arms	30, 31
36 (l), 47 (d)	Signals, Second-Car Operation	24, 25, 39
36 (j)	Skipping Stations	24
51 (c)	Slippery Rails	41
52	Smoke	41, 42
34	Soliciting Political Assessments or Other Contributions	21, 22
4 (e), (f)	Special Inspection Department, Members to be Fully Cooperated With	2, 3
76	Special Instructions to Motormen and Others (Flagging Rules)	87
36 (g)	Speed, Over Switches	24
36 (i)	Speed, In River Tubes	24
36 (j)	Speed, Skipping Stations	24
36 (m)	Speed, In Yards	25
36 (n)	Speed, In Shops	25
36 (def.)	Speed, "Restricted, With Extreme Caution	23
36 (h)	Speed, Entering Terminals	24
36 (k)	Speed, Of Work Trains	24
36 (l) 6	Speed, Second Car Operation	25
38 (c)	Speed, Against Traffic	33
36 (l), 47 (d)	Speed, Pushing Trains	24, 25, 39
51 (a), (c)	Speed, Poor Vision, Slippery Rails	41
52 (b)	Speed Flooded Tracks	41
36	Speed Restrictions, Definition	23, 24, 25
81 (v), (w), (aa); 83 (c)	Speed Restrictions (Buses)	103, 104
36, 69 (f)	Speed Restrictions (Rapid Transit)	23, 24, 25, 79
54 (c)	Speed Restrictions (Rapid Transit)	44
69 (f)	Speed Restrictions (Rapid Transit)	79
76 (a), (b), (c)	Speed Restrictions (Rapid Transit)	87
106 (g)	Speed Restrictions (Rapid Transit)	116
36 (c)	Station Platform, Short Stop, Overrunning	23
37 (k), (o), (p)	Stop Arms, Defective Or Hooked Down	30, 31

2954a

Exhibit 58

Part III

(Revised to May 1, 1972)

RULES AND REGULATIONS

RELATIVE TO

WORKING CONDITIONS

OF EMPLOYEES

(In the case of hourly paid employees affected by the Schedule of Working Conditions adopted by resolution of July 30, 1943, and as subsequently amended, these rules are intended to supplement those schedules of working conditions and those schedules are to be treated as part of these rules.)

Chapter 16

VACATION, SICK LEAVE AND OTHER ALLOWANCES

Exhibit 58

PASSES

Rule 156:

(a) Employees' identification passes, good for free transportation on any of the lines of the New York City Transit System, will be granted to all employees of the Authority for use only by the individual employees to whom they are issued.

(b) If an employee loses his identification pass he must immediately report the loss thereof and submit to the head of his department a written statement explaining in detail the circumstances under which the pass was lost. A duplicate pass may be issued to such employee in accordance with approved and authorized procedures.

(c) An employee who misuses or permits the misuse of his pass will be required to surrender his identification pass and shall lose the privilege of free transportation on the New York City Transit System. Also, he will be subject to discipline, including dismissal.

(d) Employees' identification passes may be issued to employees on extended leaves of absence in accordance with approved and authorized procedures.

INJURY ON DUTY

Rule 157:

An employee, other than a member of the uniformed force of the New York City Transit Police, incapacitated for any kind of available work as a result of an accidental injury sustained in the course of his employment will be allowed, for such period or periods during such incapacity as the Authority may in each case determine, the full amount which he would have earned during such period or periods had he been working according to the regular schedule and at the regular rate of pay for work within his title which he had and was receiving prior to the period of incapacity, less the amount of any workmen's compensation payable to him under the provisions of the Workmen's Compensation Law. If the absence for which he is to be allowed pay as herein provided, occurs two years or more after the date of the original accident, the allowance shall be based upon an amount equal to seventy-five (75) per cent of his earnings as set forth herein.

In no case will an employee be granted the allowance above mentioned or be paid more than he is entitled to receive under the Workmen's Compensation Law unless he voluntarily, and and without any additional allowance therefor, submits from time to time, as he may be requested, to physical examinations by the Authority's Medical Director or his authorized assistant. Should he at any time after the Authority's determination to grant any allowance under the provisions of this rule, refuse to submit to examination by said Medical Director or his assistant, or if, upon examination he is adjudged by such Medical Director or his assistant to be able to perform either his own work or lighter work which is offered to him and he should fail or refuse to perform the same, such refusal shall automatically effect a revocation of any and all allowances theretofore granted to him under this rule, and to the extent that the amount of any such allowance shall have already been paid to him it shall be treated as an advance payment of, and shall be deducted from, whatever moneys may thereafter become due and payable to such employee.

If, as a result of an injury sustained in the course of his employment, an employee is adjudged by the Authority's

Exhibit 58

medical staff to be disqualified for the work of his own position but qualified for lighter work in another position, and if he is assigned to and performs such lighter work he will be paid in accordance with the applicable provisions of the Physical Disability Articles of the Schedules of Working Conditions. The amount of any workmen's compensation payable for the period or any part of the period during which he so works will be deducted from his pay for the work.

No increase, by way of increment or otherwise, shall be made in the rate of pay of any incapacitated employee during the period of his incapacity, or until he returns to work in the same position which he held prior to the period of incapacity, at which time his regular rate of pay will become what it would have been had he remained continuously in active service.

No differential pay shall be granted:

(1) Unless the employee sustained an accidental injury while engaged in the performance of his assigned duty for the Authority and such accidental injury was the direct cause of the employee's incapacity for work.

(2) If the accident was due to violation by the employee of any rule of the Authority or any precautionary procedures directed by the Safety Director of the Authority, or other Safety Rules.

(3) If the employee was engaged in horse play or was at all under the influence of liquor at the time of the accident.

(4) If the employee failed to report to the Medical Director of the Authority for examination or re-examination when told to do so.

(5) If the employee failed to report for light duty or for the performance of his regular work when directed to do so.

(6) If the period for which the allowance is requested was a period during which the employee, in the opinion of the Authority's Medical Director, would not have been incapacitated for work had it not been for some physical or mental condition existing prior to the accident.

(7) If the employee failed to comply with appropriate medical advice.

When the question arises as to the granting of differential pay under this rule to an employee who has been absent from work on account of injury in the course of his employment, the Attorney in Charge of the Compensation Bureau of the Authority, shall certify to the Executive Officer, on all applications submitted by employees of rapid transit operation or the General Supt. Surface on all applications submitted by employees of surface line operation, that the following conditions have been met:

(1) That the accident was not due to any violation of the rules of the Authority, or other safety rules.

(2) That the accident was not due to the violation of any direction of the Safety Director of the Authority as to precautions taken by the employee to avoid accidents.

(3) That the employee gave due notice of the accident.

(4) That there is no uncertainty the employee sustained an accidental injury while engaged in the performance of his assigned duties for the Authority.

(5) That the employee was not under the influence of liquor at the time of the accident.

(6) That the employee was not engaged in any horse play when the accident occurred.

(7) That the employee was actually performing work for the Authority at the time of the accident.

(8) That the employee did report for light duty when directed to do so.

(9) That the employee did report for the performance of full duty when directed to do so.

(10) That the employee was duly examined by the Authority's Medical Department after the accident.

(11) That the employee did return for re-examination on every occasion when directed by the Authority's Medical Department.

(12) That the employee was completely incapacitated for work during the period for which he requested differential pay.

(13) That the incapacity of the employee during any part of his absence from work was not due to any physical condition of the employee prior to the accident in the absence of which he would not be incapacitated for the entire period for which he asks differential pay.

(14) That the employee did comply with appropriate medical advice.

In certifying to the said Executive Officer or General Superintendent Surface that the conditions as aforesaid have been met, the Attorney in Charge of the Compensation Bureau of the Authority, in addition to using the information available to him from the files in his bureau, may call upon the Safety Director of the Authority, the Medical Department of the Authority, and any other Bureau or Department of the Authority to furnish in writing to the said Attorney in Charge of the Authority's Compensation Bureau, such facts and information as he may deem necessary to properly certify to the Executive Officer or General Superintendent Surface as by this resolution is required, and said Attorney in Charge of the Compensation Bureau, is hereby authorized to call for such facts and information, and the Safety Director of the Authority, the Medical Department of the Authority, and all other bureaus and departments of the Authority are hereby directed to furnish the facts and information so called for by said Attorney in Charge of the Compensation Bureau.

After receipt of the certification from the Attorney in Charge of the Compensation Bureau, as hereinbefore mentioned, the Executive Officer or General Superintendent (Surface) shall have power, subject to and in accordance with the provisions above set forth, to grant differential pay for a total of not more than ten (10) working days to any one employee on account of any one accident. If the Executive Officer believes that differential pay should be granted to an employee for a total of more than ten (10) working days, he shall have power, subject and in accordance with the policy established by the Authority as above set forth, to grant differential pay to such employee on account of such accident for twenty (20) working days, in addition to the ten (10) working days for which the Executive Officer or General Superintendent (Surface) had the power to grant such differential pay. In no case shall an employee be allowed differential pay for a total of more than thirty (30) days without the specific approval of the Authority.

Exhibit 58

LEAVES OF ABSENCE WITH PAY

Rule 158:

(a) ORDERED MILITARY DUTY. Leaves of absence with or without pay, according to requirements of the law, will be granted to employees for the performance of ordered military or naval duty in accordance with the provisions of state statutes applicable thereto.

(b) STATE OR NATIONAL CONVENTIONS OF VETERANS' ORGANIZATIONS.

(1) Leave of absence with pay in accordance with the rules and regulations set forth herein will be granted to an employee who is a member of any of the following named veterans' organizations and who has been designated as an official delegate to attend a state or national convention or encampment of such organization customarily held in the summer and fall of each year, commonly referred to as an annual convention: The Army and Navy Union of the United States of America, United Spanish War Veterans, Veterans of Foreign Wars of the United States, American Legion, Disabled American Veterans of the World War, Army and Navy Legion of Valor of the United States, Jewish War Veterans of the United States, Military Order of the Purple Heart, Catholic War Veterans, Italian War Veterans, Legion of Guardsmen, American Veterans of World War II (AM-VETS), Reserve Officers Association of the United States, Military Chaplains Association of the United States, Association of the United States Army, and other organizations composed of veterans of wars in which the United States has participated.

(2) Leave of absence with pay will be granted for the period of attendance at such state or national convention or encampment, including normal traveling time by rail to and from same provided the employee obtain and, upon his return, file with the Authority, through his department head, a certificate by the Secretary or other authorized official of the organization certifying that such employee was duly designated as an official delegate to said convention or encampment and, as such delegate, was in attendance thereat for the specific period of time allowed, and further provided that such leave of absence may be granted without impairing the essential services of the transit system.

(3) Leave of absence will not be granted where the employee desires to attend such convention in a capacity other than that of official delegate thereto.

(4) An employee who is a member of more than one of said organization shall be entitled to leave of absence as aforesaid to attend the state or national convention or encampment of only one such organization, to be designated by him.

(5) Employees engaged in the operation of the New York City Transit System desiring such leave of absence must make application therefor on the proper form at least two (2) weeks in advance of the time when such leave is to take effect.

(6) The Executive Officer is authorized to approve applications for leave of absence with pay submitted in compliance with the above rules.

(7) These rules and regulations shall apply to all employees of the Transit Authority.

Exhibit 58

JURY DUTY

Rule 159:

(1) An employee required to perform jury duty which in any way interferes with his regular working hours will be granted a leave of absence with pay, provided such employee endorses all checks received in payment for such jury service to the Authority.

(2) Pay for such leave of absence for an hourly paid employee shall be the same as if he had worked in accordance with his regular work schedule for each day included in such leave of absence. The term "regular work schedule" shall not be deemed to include any overtime work which may have been planned ahead except where it is part of a scheduled run for a Motorman, Conductor or Bus Operator and shall include the time allowances granted to Railroad Clerks for verifying accounts with their reliefs after the completion of their scheduled tour of duty; and effective January 1, 1965, it shall also include the twenty-minute lunch period allowance granted to Railroad Watchmen, as well as the ten-minute reporting allowance granted to Power Maintainers "B", and the ten-minute reporting allowance granted to Towerman, Road Car Inspector, Signal Maintainer and Emergency Light Maintainer who are entitled to same under the Schedule of Working Conditions. If a Motorman, Conductor, Bus Operator, or Railroad Clerk who has a regular run is permitted by pick or otherwise, to take on any extra work in addition to his regular run, such extra work, even if arranged for in advance, shall not, for the purpose of this rule, be considered as part of his regular work schedule. Where a Motorman, Conductor, Bus Operator, or Railroad Clerk has elected to cover the board or serve as an extra, his schedule shall be deemed to call for eight (8) hours' work per day, except where a run in excess of eight (8) hours has been assigned to him in advance for a particular day in which event such run shall be deemed to be his regular work schedule for that particular day.

(3) Fees received for a jury duty performed by an employee during such employee's days off or vacation may be retained by the employee. When it is necessary for an employee to absent himself from any part of his work in order to qualify for jury duty, he will be granted leave of absence with pay for such length of time as may be necessary for that purpose, not exceeding however, four (4) hours.

(4) An employee whose Jury Service Fees are in excess of his regular base earnings for the period of absence while on Jury Duty, will have such excess reimbursed to him. Jury service fees shall include travel allowances granted by City and State Courts, but shall not include travel allowance of other courts.

(5) When an employee is required to be on Jury Duty, his Schedule Days Off shall be changed to Saturday and Sunday during the period of time he is on Jury Duty. In all other respects the controls and administration of Jury Duty shall continue.

LEAVE OF ABSENCE FOR DEATH IN FAMILY HOURLY RATED EMPLOYEES

Rule 160:

At the time of death in an employee's immediate family, he shall, upon submitting evidence satisfactory to the department head, be granted a leave of absence with pay at his regular rate of pay, on each such day, not to exceed three (3) work days. Such leave shall not be charged to any other allowances, such

as vacation, sick leave or holiday. Immediate family is defined for this purpose as: spouse; natural, foster, step-parent; mother-in-law, father-in-law, child, brother, sister; and any person residing in the household. "Any person residing in the household" is to be interpreted as meaning a person related by family ties with permanent residence in the household.

PAYMENT FOR ATTENDANCE AT CIVIL SERVICE EXAMINATIONS

Rule 161:

No permanent employee of the Authority shall lose pay for time attending a promotion examination for a City Civil Service title which appears on the payroll of the Authority; nor shall an employee, whether a permanent employee, or a provisional employee with one year or more of service, lose pay for time attending an open-competitive examination held exclusively to fill a Civil Service title within the New York City Transit Authority. If such examination is held within eight (8) hours after the end of the tour of duty of an employee whose application for the examination has been accepted by the City Civil Service Commission, the employee shall be excused with pay from such tour of duty.

Employees reporting outside of their regular tours of duty for medical examinations required as part of a Civil Service Commission promotion examination to a title which appears on the payroll of the Authority, shall be allowed three (3) hours' pay at their regular rate of pay.

LEAVES OF ABSENCE WITHOUT PAY

Rule 162:

(a) Leaves of absence without pay for personal business not exceeding ninety (90) calendar days, may be granted to employees by the department head. No such leave of absence without pay shall be granted to any employee without written application therefor by or on behalf of the employee. Additional leaves of absence without pay in excess of the ninety (90) day period may be granted by the Executive Officer upon recommendation of the department head. An employee absent without leave will be subject to disciplinary action which may result in his removal. An employee absent without leave for five consecutive calendar days shall be presumed to have abandoned his position and charges will be brought for his dismissal from the service of the Authority. An employee who has been continuously absent from work for a period of time commencing in one sick leave year and continuing until two months prior to the expiration of the next sick leave year shall not be granted any further leaves of absence, unless, as a condition thereof, he agrees in writing to waive any right or claim to sick leave allowance or other pay during his continued absence beyond the end of the latter sick leave year.

(b) Leaves of absence without pay for union duty may be granted for periods extending up to one year in duration to an employee who will perform such duty with a recognized union on the property, provided that if any such employee wishes to return to active employment with the Authority prior to expiration of his leave of absence without pay, his department shall send notice of the cancellation of his leave to the Personnel Department of the Authority for appropriate calendar action.

(c) Leaves of absence without pay for maternity leave will be granted in accordance with the following rules and regulations:

(1) Existence of pregnancy shall be reported by the employee in writing to the head of the department in which she is employed not later than the fourth month of pregnancy.

(2) The employee must apply for a maternity leave of absence without pay, commencing not later than the completion of the fifth month of pregnancy.

(3) Such leave shall be for a period of twelve (12) months and, on application of the employee, may be extended by the department head for an additional period not to exceed six (6) months. Total leave for this purpose shall not exceed eighteen (18) months.

(4) An employee on maternity leave shall be required to report for physical examination before resuming service.

LEAVES OF ABSENCE NOT TO BE GRANTED TO PERFORM WORK OUTSDE THE AUTHORITY'S EMPLOYMENT

Rule 163:

Leaves of absence will not ordinarily be granted to enable an employee to engage in other employment than that of the Authority. Proof of such other employment, without the consent of the Authority, during an employee's assigned working hours will be regarded as an abandonment by the employee of his position with the Authority and will be ground for dismissal of the employee from the service of the Authority. Likewise, if work performed for another employer outside of the time assigned to an employee for his work for the Authority causes him to be unfit for the efficient performance of his work for the Authority, this will constitute neglect of duty and delinquency and will be punishable by dismissal from the service of the Authority.

ANNUAL VACATION ALLOWANCES

Rule 164:

The provisions of this rule shall apply to all employees of the Authority except the members of the uniformed force of the New York City Transit Police and except as specifically otherwise provided by Authority resolutions relating to annually-rated employees in Group II of the Rapid Transit Railroad Service of the Civil Service Classification and employees covered by the Career and Salary Plan and competitive employees reclassified by the City Civil Service Commission from Career and Salary Plan positions to Rule X positions, pursuant to resolution adopted by the City Civil Service Commission on December 20, 1963.

(a) A vacation with pay will be granted each year to each employee of the Transit Authority as hereinafter provided, at such time within the year as the Authority shall fix and determine. The twelve months' period within which such vacations will be granted and allocated is referred to in this Rule as the vacation year. The vacation year will be either the calendar year, or a year commencing the first day of May in a calendar year and ending on the thirtieth day of April of the following calendar year, as the Authority may determine to be appropriate for the particular department or section of a department. Vacations may be spread over the entire twelve months of the vacation year whenever the Authority deems this advisable in the interest of efficiency or economy. The amount of vacation allot-

ment in weeks or days will be computed on the basis of the time and duration of active employment prior to the beginning of the vacation year. For the purpose of this rule, periods of leave of absence without pay for one month or more, except where such leave of absence shall have been for ordered military duty, shall not be deemed to be active employment.

(b. 1) Each employee to whom this rule is applicable who, at the beginning of a vacation year, shall have been actively in the employ of the Authority for less than one year, will be granted a vacation of one day for each full calendar month he shall have been in the employ of the Authority prior to the beginning of the vacation year but not exceeding two (2) weeks.

(b. 2) Effective January 1, 1971 or May 1, 1971, whichever is the beginning of the employee's vacation year, each such employee of the Transit Authority who, at the beginning of a vacation year, shall have been actively in the employ of the Authority for one (1) year but who at the beginning of that vacation year shall not have been actively employed for more than three (3) years in connection with the maintenance and operation of any transit facility now constituting part of the New York City Transit System, shall be granted a vacation of two (2) weeks during such vacation year.

(b. 3) Effective January 1, 1971 or May 1, 1971, whichever is the beginning of the employee's vacation year, each such employee who, at the beginning of a vacation year shall have been actively employed for more than three (3) years in connection with the maintenance and operation of any transit facility now constituting part of the New York City Transit System, shall be granted a vacation of four (4) weeks in each such vacation year.

(b. 4) Effective January 1, 1972 or May 1, 1972, whichever is the beginning of the employee's vacation year, each such employee who, at the beginning of a vacation year, shall have been actively employed for more than fifteen (15) years in connection with the maintenance and operation of any transit facility now constituting part of the New York City Transit System, shall be granted a vacation of five (5) weeks in each such vacation year.

(b. 5) For the purpose of determining the length of active employment upon which are based the allowance provided in paragraphs (b. 3) and (b. 4) any leave of absence without pay and any break in service of less than one year, shall not be considered as interruptions in continuous employment, except, however, that an employee who, for any reason, leaves the employ of the Authority and returns within one year, will be considered a new employee for the purpose of computing his vacation allowance as provided under paragraph (b) during the vacation year immediately following the one in which he is reinstated.

(b. 6) An employee who during the preceding vacation year shall have been on leave of absence without pay except for ordered military duty, shall be granted a vacation with pay on the following basis:

(1) An employee who at the beginning of a vacation year shall not have been actively employed for more than three (3) years shall be granted a vacation with pay of one (1) day per month for each month or the major portion thereof he shall have worked during the preceding vacation year but not more than two (2) weeks.

(2) Effective January 1, 1971 or May 1, 1971, whichever is the beginning of the employee's vacation year, each such employee who, at the beginning of a vacation year, shall have been actively employed for more than three (3) years shall be granted a vacation with pay of two (2) days per month

for each month or the major portion thereof he shall have worked during the preceding vacation year but not more than four (4) weeks.

(3) Effective January 1, 1972 or May 1, 1972, whichever is the beginning of the employee's vacation year, each such employee who, at the beginning of a vacation year, shall have been actively employed for more than fifteen (15) years shall be granted a vacation with pay of two and one-half (2½) days per month for each month or the major portion thereof he shall have worked during the preceding vacation year but not more than five (5) weeks.

(c. 1) During the vacation period each employee will be allowed vacation pay equal to what he would have earned had he been working during that period on his regular work or run schedule. This shall also be deemed to include the time allowances granted to Railroad Clerks for verifying accounts with their reliefs after the completion of their scheduled tour of duty, and effective January 1, 1965, it shall also include the twenty-minute lunch period allowance granted to Railroad Watchmen, as well as the ten-minute reporting allowance granted to Power Maintainers "B", and the ten-minute reporting allowance granted to Towermen, Road Car Inspectors, Emergency Light Maintainers, Signal Maintainers, Telephone Maintainers who are entitled to same under the Schedule of Working Conditions for their title. If entitled to shift differential same will be paid for vacation period. Overtime work planned ahead shall not be considered part of the employee's regular work schedule except where it is part of a scheduled run for a Motorman, Conductor or Bus Operator. However, if a Motorman, Conductor or Bus Operator who has a regular run is permitted, by pick or otherwise, to take on any extra work in addition to his regular run, such extra work shall not be considered part of his regular work schedule. Whenever, as a result of a new pick of runs, the run time of a Motorman, Conductor or Bus Operator changes during his vacation period, he shall be paid for his vacation on the basis of what he would have earned had he been working on his regular work or run schedule in effect on each day of his vacation.

(c. 2) The vacation pay for the period of vacation of a Motorman or Conductor, who is an "Extra List," "Board," or "Vacation Relief" man, shall be paid at his regular rate of pay each week when he is on vacation a number of hours equal to the average number of paid hours per week in all regular runs on the schedules in effect at the beginning of the vacation year for the division to which he is assigned.

(c. 3) The vacation pay for the period of vacation of a Bus Operator who is an "extra list" man shall be paid at his regular rate of pay when on vacation a number of hours equal to the average number of paid hours per week in all regular runs on the schedules in effect for the division to which he is assigned at the time he takes such vacation.

(c. 4) The vacation pay for the period of vacation of a Railroad Clerk who is working as a "vacation relief" or as an "extra," shall be paid at his regular rate of pay when on vacation a number of hours equal to the average number of paid hours per week in all regular tricks on the work programs in effect for the department at the time he takes such vacation.

(d) In the event of a change in the date of commencement of the vacation year for any department or section of a department or any class or group of employees, so that the vacation year shall commence on the first day of January instead of the first day of May, the allocations of vacation time that have been announced previous to such action by the Authority will

remain unchanged, except for those whose allocated vacation time is within the first four months of the following calendar year. If such change should occur, a computation of vacation allowances within the new vacation year, based on the time of employment by the Authority up to the beginning of such year, will be made and published in the month of November, and a selection and allocation of vacation time during the next vacation year will be made in accordance with the usual methods and practices governing allocation of vacation time. Those employees who had previously selected or had previously been allocated vacation time during the months of January, February, March or April, as their vacation time for the old vacation year which commenced the preceding May, will have a preferential right to hold and retain such allocations of vacation time for the vacation to be had in the new vacation year, if they so desire, but all those who do not make known such desire will participate in a new selection and allocation of vacation time for the new vacation year commencing the first day of January. For all such allocations, the basic principle as to the length of vacation set forth in Subdivision (b) of this Rule will govern vacation time allowable. No employee will be allowed two periods of vacation time in the same calendar year because of such change in the date of commencement of the vacation year, unless the Authority, upon a review of the facts in the particular case, determines that an exception should be made.

(c) The annual vacation allowance will not be accruable and will not be carried over from one year to another except upon the approval of the Authority. Terminal vacation with pay shall be allowed an employee, whether permanent, temporary, or provisional, in addition to any vacation due him under subdivision (b) of this rule,

(1) where the employee's services are terminated or suspended through no fault of his own, or because of his induction into the Armed Forces of the United States, or

(2) where the employee, who is resigning or retiring of his own volition and not because of, or in anticipation of disciplinary action against him, shall, prior to separation from service, make a request therefor.

Terminal vacation shall be computed as follows:

To an employee who, at the beginning of the vacation year in which he leaves the employ of the Authority, will not have completed three (3) years of service:

One (1) day for each complete calendar month worked in that vacation year prior to the date of separation, but not exceeding two (2) weeks.

Effective January 1, 1972, or May 1, 1972, whichever is the beginning of the employee's vacation year, to an employee, who, at the beginning of the vacation year in which he leaves the employ of the Authority, had completed three (3) years of service but had not completed fifteen (15) years of service:

Two (2) days for each complete calendar month worked in that vacation year prior to the date of separation, but not exceeding four (4) weeks.

Effective January 1, 1972, or May 1, 1972, whichever is the beginning of the employee's vacation year, to an employee who, at the beginning of the vacation year in which he leaves the employ of the Authority, had completed fifteen (15) years of service or more:

Two and one-half (2½) days for each complete calendar month worked in that vacation year prior to the date of separation, but not exceeding five (5) weeks.

No additional vacation allowance or terminal vacation shall accrue to an employee for the period of such terminal vacation. No terminal vacation shall be granted for sick leave with pay, vacation or overtime offset credits used immediately prior to any terminal vacation granted under this paragraph, except that an employee who retires under either the IRT, BMT or City pension plan shall be entitled to credit as time worked for each month or major portion of a month prior to his retirement while he is on regular vacation.

Terminal vacation shall be paid on the basis of eight (8) hours per day. No additional payment shall be made because of any run or tour in excess of eight (8) hours in a day by which an employee may have been paid prior to the period of terminal vacation. Bus operators shall, upon retirement, receive terminal vacation pay on the basis of the run held at the time of such retirement. No holiday pay shall be granted for any of the stated holidays provided under Rule 165, which may fall within the period of such terminal vacation. An employee who has not worked during a vacation year shall not receive any terminal vacation if he is separated from the service during such year. The allowance of such terminal vacation shall be conditioned, however, upon an agreement by the employee to whom it is granted that should he return to the service of the Authority before the end of the following vacation year, the number of terminal vacation days so allowed to him, shall be deducted from any vacation he may be entitled to take in such following year after returning.

(f) An employee who is away on leave of absence will not be granted any vacation allowance during the continuance of such leave. He must be in active service immediately preceding the period for which he is granted a vacation. In the event, however, that an employee is taken sick and on that account stops work before he has had his vacation for the vacation year in which the illness commences, he may elect subject to approval by the head of his department, to take such vacation as provided in Rule 166, paragraph (t). When a leave of absence due to illness, begins in one vacation year and extends into the next succeeding vacation year, an employee may, subject to approval by the head of his department, elect to take the vacation due him in such later vacation year as provided in Rule 166, paragraph (t). However, such election under this rule and under Rule 166, paragraph (t), shall apply only to the complete vacation due the employee at the time of his request, and no grant shall be made of only a portion of a vacation allowance.

(g) An employee who is dismissed on charges, or who resigns while on charges or in anticipation thereof, shall not have the date of termination of his employment postponed to allow him any vacation pay whatever whether he shall have previously had a vacation in that vacation year or not.

(h) While a permanent employee is away in any year, on military duty, he will be treated as continuing in the employ of the Authority for the purpose of determining how much vacation he is entitled to take in the following vacation year should he return to the active service of the Authority during that year. Upon his return before the end of that year, he shall, to the extent that the time intervening between his return and the end of the year may permit, be entitled to take before the end of the vacation year such vacation as he would have been entitled to take in that year had he not been away on military leave, less such part thereof as he may have been allowed at the time of his induction into the armed forces. He shall not, however, carry over to a subsequent vacation year a vacation which he may have missed because of being away on military leave of absence.

(i) Hourly paid employees may be paid for their vacations in advance. Annually rated operating supervisory employees in titles other than those listed in Para. 2.10 of the Leave Regulations dated December 13, 1960, may be granted advance payment of vacation allowance.

(j) The use of any vacation allowance provided by this rule shall not be anticipated unless authorized by the Transit Authority.

(k) An employee who, during the vacation year, is in service part of the time in a position to which this resolution is not applicable and part of the time in a position to which it is applicable shall accrue annual leave allowances in accordance with the terms of this resolution for each month during the major part of which he served in a position to which this resolution is applicable, and shall accrue an annual leave allowance for each month during the major part of which he served in a position to which this resolution is not applicable in accordance with the rules and regulations applicable to such other position.

An employee shall, in each vacation year, be granted his total accrued leave allowance regardless of the title in which he is serving at the time he takes his annual leave allowance.

(l) To the estates of deceased hourly rated employees in Group I of the Rapid Transit Railroad Service, and to estates of deceased annually rated operating employees in Group II of the Rapid Transit Railroad Service, a cash payment shall be made equal to the current monetary value of accumulated unused vacation and unused AVA days standing to the credit of such deceased employees.

HOLIDAYS

Rule 165:

The provisions of this rule shall apply to all employees of the Authority except the members of the uniformed force of the New York City Transit Police and except as specifically otherwise provided by Authority resolutions relating to annually-rated employees in Group II of the Rapid Transit Railroad Service of the Civil Service Classification and employees covered by the Career and Salary Plan and competitive employees reclassified by the City Civil Service Commission from Career and Salary Plan positions to Rule X positions, pursuant to resolution adopted by the City Civil Service Commission on December 20, 1963.

(a) To the extent that it may be practicable, an employee of the Authority, in service thirty days or more, will be released from work without loss of pay on the following holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day and the employee's birthday. Such an employee excused from work on one of the stated holidays shall be paid for that holiday only if he reported for work on the scheduled work day before and the scheduled work day after the holiday, unless he is prevented by bona fide illness or for good reason is excused from so reporting. With respect to holiday pay, where an employee is scheduled to work on any of the stated holidays and the first day of his absence, because of a claimed illness, falls on the holiday, he shall, upon submitting proof satisfactory to the department head, be granted holiday pay for the first day of such absence and shall not be paid sick leave.

(b) An hourly paid employee, in service thirty days or more, who is not released from work by order of his superior and is

therefore required to work on any of the stated holidays, will be paid on the same basis as if it had been one of his regularly scheduled working days and in addition will be paid eight (8) hours for the holiday. If under the Working Conditions adopted by the Authority such employee would have been entitled to be paid at the rate of time and one-half for working on the day in question he shall be paid at the rate of time and one-half for all work performed on that day and in addition will be paid eight (8) hours for the holiday.

(c) An hourly paid employee who is required to work on a paid holiday at a time when he does not have six (6) unused AVA days (Additional Vacation Allowance) to his credit may elect to be paid for his work on the holiday only what he would receive therefor if it were performed on one of his regular working days, and instead of receiving eight (8) hours additional pay therefor, be credited with an AVA day entitling him to another day off with pay in lieu of the holiday. The provisions of this paragraph shall not be applicable to any hourly paid employee who is required to work on Lincoln's Birthday.

To make such election, he must give notice thereof in writing to his superior in advance of the holiday.

He shall not be allowed to make such election more than six times in any one calendar year or at a time when he already has six AVA days to his credit.

The particular day on which he is to be released from work to make use of any AVA credit must be agreed upon in advance by his superior.

Despite the fact that the letters "AVA" stand for the words "Additional Vacation Allowance," the so-called AVA days shall in no event be added to vacations or used in a group as a vacation period.

(d) Except as otherwise provided by Authority resolution, an employee who is paid on a per diem or annual salary basis, and who has been in service for thirty days or more, will, if required to work on one of the stated holidays, be allowed another day off, without deduction of pay, in lieu of that holiday.

(e) An employee who is not released from duty by order of his superior on one of the stated holidays and who nevertheless absents himself from work shall forfeit his right to any pay for the said holiday or to any other day off in lieu thereof, except that this shall not be applicable to veterans (as defined in Section 63 of the Public Officers Law) in respect to Memorial Day or Veterans' Day.

(f) An hourly rated employee, in service thirty (30) days or more, whose regular day off occurs on one of the stated holidays may elect to receive credit for an AVA day rather than eight (8) hours' holiday pay, whether or not he is required to work on that day, if he is eligible under paragraph (c). The provisions of this paragraph shall not be applicable to any hourly paid employee who is required to work on Lincoln's Birthday.

(g) When an hourly rated employee's vacation period includes one or more of the stated holidays with pay, he may elect to retain such day or days as AVA allowance, whether the holiday falls on a scheduled working day or on a regular day off, if he is eligible under paragraph (c), but to make such election he must give written notice thereof before the commencement of his vacation period. For other than hourly paid employees, if a holiday falls during a vacation period, another day off in lieu of such holiday shall be allowed. The provisions of this paragraph shall not be applicable to any hourly paid employee who is required to work on Lincoln's Birthday.

(h) None of the foregoing provisions in this rule shall be applicable in respect to any of the stated holidays to any employee who may have been continuously absent from duty for thirty days or more, except for absence during paid vacation immediately preceding such holiday. An employee who has performed no work for the Authority during a period of thirty days or more, except for absence during paid vacation immediately preceding a holiday shall not receive any pay for the holiday or be allowed another day off in lieu thereof.

(i) Whenever, under the provisions of this rule, an employee may be entitled to another day off, without deduction in pay, in lieu of one of the stated holidays above specified, the particular day on which he is to be excused from duty must be determined by his superior, who as far as practicable, will consider the preferences of the employee.

(j) An hourly paid employee, in service less than thirty days, will receive no pay for any of the holidays abovementioned if not required to work on that holiday, but if required to work on any of the said holidays, he will be paid at the rate of time and one-half for his work on that day. Veterans (as defined in Section 63 of the Public Officers Law), however, shall be paid for Memorial Day and Veterans' Day, regardless of the length of their service.

(k) Upon application, and with the prior approval of the department head, an employee who works in a department or section of the Authority which limits the vacation to one, two or three periods during which the employee must take his vacation, i.e., Car Maintenance Repair Shops at 207th Street, Manhattan; Coney Island, Brooklyn; and the Bus Maintenance Department, East New York Base Repair Shop, Brooklyn, and who has AVA days to his credit, may be permitted to add such AVA days to his scheduled vacation where his vacation credit is, because of length of service, less than the maximum vacation period established for the department or section which has such limitation.

SICK LEAVE

Rule 166:

(a) Subject to the limitations hereinafter set forth, the Authority will grant to every employee under its supervision, other than a member of the uniformed force of the New York City Transit Police, who shall have been in its employ for at least one year, sick leave with pay on each working day when he is unfit for work on account of illness, up to a total in any one year, of twelve days plus the number of days, not exceeding eighty-four, by which the total amount of sick leave with pay allowed to such employee by the Board of Transportation and the Authority in prior years since April 30, 1941, shall have been less than one day per month of employment during such prior years. In no one year will an employee be entitled to more than ninety-six days' sick leave with pay, but unused sick leave may be carried over to a subsequent year.

(b) Subject to the limitations hereinafter set forth, the Authority will grant to every employee in its employ less than one year sick leave with pay on each working day when such employee is unfit for work on account of illness, up to a total of one day per each calendar month during which, or the major part of which, the employee shall have been in such employ.

(c) The term "year," as used in this rule, shall mean a period of twelve months beginning on the first day of May and ending on the following thirtieth day of April.

(d) For the purpose of this rule, an employee shall not be deemed to have been in the employ of the Board of Transportation or the Authority during a period of leave of absence without pay except where such leave of absence shall have been for ordered military duty.

(e) For any day on which sick leave with pay is granted to an employee, the pay to be allowed him shall be the same as if he had worked in accordance with his regular work schedule for that particular day, as such schedule stood at the time of the commencement of his illness, but the term "regular work schedule" shall not be deemed to include any overtime work which may have been planned ahead, except where it is part of a scheduled run for a Motorman, Conductor or Bus Operator. Effective January 1, 1965, the term "regular work schedule" shall include the time allowances granted to Railroad Clerks for verifying accounts with their reliefs after the completion of their scheduled tour of duty; the twenty-minute lunch period allowance granted to Railroad Watchmen, and the ten-minute reporting allowance granted to Power Maintainers "B," and the ten-minute reporting allowance granted to Towermen, Road Car Inspectors, Signal Maintainers, Emergency Light Maintainers and Telephone Maintainers entitled to same under the Schedule of Working Conditions. If a Motorman, Conductor or Bus Operator who has a regular run is permitted, by pick or otherwise, to take on any extra work in addition to his regular run, such extra work, even if arranged for in advance, shall not, for the purpose of this rule, be considered as part of his regular work schedule. Where a Motorman, Conductor or Bus Operator has elected to cover the board or serve as an extra, his schedule shall be deemed to call for eight hours' work per day, except where a run in excess of eight hours has been assigned to him in advance for a particular day, in which event such run shall be deemed to be his regular work schedule for that particular day. For each day of sick leave, a Bus Operator who is an 'extra list' man, shall be paid at his regular rate of pay, a number of hours equal to the average number of paid hours per day in all regular runs on the schedules in effect for the division to which he is assigned at the time he is on sick leave.

(f) Sick leave shall not run concurrently with vacation and will not be granted in respect to any of the eight (8) holidays specified in Rule 165 or in respect of any day which is the employee's regular day off.

(g) In order to be granted a paid or unpaid leave of absence on account of illness, an employee must file a written application therefor, on a form provided by the Authority, within three (3) days after his return to work, but this form may be filed during the period of his absence if such absence is for an extended period. The application for sick-leave must include a true statement of the cause of the applicant's absence from work, including the nature of his illness or disability, and must be made to the Authority through the applicant's appropriate superior. If the application is for more than two (2) days, it must comply with the provisions of subdivision (i) of this rule.

(h) No sick leave will be granted for illness due to indulgence in alcoholic liquors or narcotics.

(i) The burden of establishing that he was actually unfit for work on account of illness shall be upon the employee. Every application for sick leave, whether with or without pay, for more than two days, must be accompanied by medical proof satisfactory to the Transit Authority and upon a form to be furnished by the Authority, setting forth the nature of the employee's illness and certifying that by reason of such illness the employee was unable to perform his duties for the

period of the absence. This rule will not in any way relieve the employee from complying with subdivisions (k) and (l) of this rule, as well as subdivision (c) of Rule 5.

(j) To be entitled to sick leave for any day on which he is absent from work because of illness, an employee, except where it is impossible to do so, must, at least one hour before the commencement of his scheduled tour of duty for that day, cause notice of the illness and of the place where he can be found during such illness, to be given by telephone, messenger, or otherwise, to his appropriate superior, and must also give notice to such superior of any subsequent change in the place where he can be found. Where it is impossible to give such notice within the time above prescribed, it shall be given as soon as circumstances permit. The failure to cause such notice to be given shall deprive the employee of his right to be paid for such scheduled tour of duty, and he shall not be entitled to pay for any subsequent tour of duty from which he absents himself unless at some time, not less than one hour prior to the commencement of such tour of duty, he shall have caused such notice to be given. The failure to cause notice to be given as herein provided shall not be excused unless the Authority is convinced that special circumstances made it impossible and is also convinced that notice was given as soon as the special circumstances permitted.

(k) If a representative of the Authority calls at the place where the absent employee gave notice that he could be found during his ilness, or in the absence of such notice, calls at the home of the absent employee and cannot find him, the absent employee will be deemed to be absent without leave. Such employee will not be granted sick leave and will be subject to appropriate disciplinary action.

(l) Effective as of January 1, 1968, when an employee is out sick and is visited by a doctor of the Transit Authority who finds the employee able to work, there will be no deduction made for that day in the current pay period but the Authority may deny payment after review and deduct pay for such day in a subsequent pay period.

(m) No sick leave with pay will be granted for less than one-quarter of a day at a time. An employee who under this rule is not entitled to sick leave with pay for the first working day in any period of leave of absence for illness and who works part of his scheduled tour of duty, but, because of such illness, does not work the balance thereof, and continues absent because of such illness beyond the start of his next regularly scheduled tour of duty, shall be granted sick leave with pay for that part of the second day of such absence which follows the equivalent time at which he ceased work on the day on which he became ill. In the event that a paid absence of less than one full day is to be charged against unused sick leave allowances, the following table of computation shall be used:

One-fourth (¼) of a day if he was on duty more than 5 hours on the day during which his services were interrupted by illness;

One-half (½) of a day if he was on duty more than 3 hours but not more than 5 hours on such day;

Three-fourths (¾) of a day if he was on duty as much as 1 hour, but not more than 3 hours, on such day;

One (1) full day if he was on duty less than 1 hour on such day.

If his work schedule on such day includes a paid meal period and he works all of that part of his tour of duty which precedes his scheduled meal period, or all of that part of his tour of

duty which follows his scheduled meal period, the meal period will be treated as time on duty in determining the charge to be made against his sick leave allowance.

(n) An employee who is found to be in violation of this rule governing sick leave allowances shall, in addition to being subject to the denial of sick leave, also be subject to appropriate disciplinary action. Any serious violation, or persistent infractions, or a fraudulent claim for sick leave may result in dismissal from the service.

(o) Time of absence from work while incapacitated by injury received in performance of duty will not be charged against the sick leave allowable under this rule.

(p) No sick leave will be granted to an employee who is unfit for work on account of an accident incurred while working for an employer other than the Transit Authority.

(q) In addition to the sick leave required by Section 16-a of the Rapid Transit Law, the following additional sick leave shall be provided to each hourly paid employee at sixty percent (60%) of what the employee would have been paid if he had worked in accordance with his regular schedule, subject to the terms and conditions hereinafter set forth:

	Additional Days Per Sick Leave Year*
Employees with less than 4 years of service at the beginning of the sick leave year	0
Employees with service from 4 years up to but not including 8 years at the beginning of the sick leave year	15
Employees with service from 8 years up to but not including 14 years at the beginning of the sick leave year	30
Employees with service from 14 years up to but not including 20 years at the beginning of the sick leave year	60
Employees with 20 years or more of service at the beginning of the sick leave year	90

*Unless otherwise indicated, a "year" is defined as the period between May 1 and April 30.

(r) The additional sick leave days required under paragraph (q) shall not be accumulative from year to year but shall be available to the covered employees in each year. The additional days shall not be available to an employee unless he is absent for illness for nine (9) or more consecutive working days, in which event the employee shall receive pay to the extent provided in paragraph (q) above from the first day for which the Authority is not required to pay him under Section 16-a of the Rapid Transit Law.

(s) To be eligible to receive the additional days of sick leave on a sixty per cent (60%) payment basis provided by paragraph (q) above, during the remainder of the sick leave year which began May 1, 1957 or during any sick leave year thereafter, the employee must be eligible for an allowance of twelve (12) days of sick leave pay in said sick leave year under the Authority's Rules and Regulations.

(t) An employee who has exhausted all his sick leave allowances at full pay, may elect subject to the approval of the head of his department to use any current vacation or accrued AVA days to which he may be entitled, in their entirety, before mak-

ing application for sick leave at the sixty percent (60%) payment basis. If such absence is expected to continue beyond the end of the vacation year, the employee's leave of absence with pay for illness shall be interrupted for a sufficient number of days so that he may be paid for any remaining current vacation before the expiration of the vacation year. The employee must provide adequate medical evidence to show that the entire period of absence including vacation and AVA days used under this paragraph was the result of one continuous absence.

General research, investigation, case planning, communication with and provision of legal advice and representation to class members, monitoring relief, meetings with counsel and other persons:

Senior Attorneys	275.00
Junior attorneys	460.25
Law stud nts and paralegal	138.00

Total Hours:

Senior attorneys	1,307.75
Junior attorneys	2,968.50
Law students and paralegal	173.00

6. The credentials and experience of the lawyers who served as principal counsel for plaintiffs and the time devoted by each such person to various aspects of the case are as follows:

Elizabeth B. DuBois

Work on papers, pleadings and briefs:	535.25
Preparation for depositions, hearings, trial and court conferences:	225.50
Attendance at depositions, hearings, trial and court conferences:	153.50
General research, investigation, case planning, communication with and provision of legal advice and representation to class members, monitoring relief, meetings with counsel and other persons:	195.00
Total hours:	1,109.25

Ms. DuBois is the founder and present director of the Legal Action Center, a public interest law firm funded by a number of private foundations including the Ford Foundation and by one governmental agency. She is presently a member of the Executive Committee of the Association of the Bar of the City of New York, of the Board of Overseers of Harvard University and of the Overseers' Committee to Visit Harvard Law School. Ms. DuBois formerly served as Counsel to the Vera Institute of Justice, as a staff attorney at the NAACP Legal Defense Fund, and as Special Assistant to the Executive Director (James Vorenberg), of the President's

Px 1007 p 3

THIS PAGE INTENTIONALLY LEFT BLANK

K

Exhibit K—Carl A. Beazer Transit Authority Record (Excerpt)

TRANSCRIPT OF RECORD

Name:- Carl A. Beazer, Towerman, #053030, Division 'A'

Address:- 1165 East 224th Street, Bronx, New York City 10466

Birth:- January 17th, 1935

Appointed:-
Car Cleaner.....May 11th, 1960
Conductor.....March 1st, 1961 (Provisional)
Terminated.....August 4th, 1962 (Returned as Car Cleaner)
Conductor.....October 1st, 1962 (Permanent)
Towerman.....January 10th, 1965 (Provisional)
Conductor.....November 7th, 1965 (Terminated as Prov. Twn.)
Towerman.....May 15th, 1966 (Permanent)

Assignment:- Trick #314, E180th Street; 2:00P.M.-10:00P.M; RDO's - Sat/Sun

Rate of Pay:- $4.96.00 per hour

Commendations:- None

Cautions:-

Occurred	Issued	
06/11/60	06/20/60	Failed toregister his time card "OUT" at end of tour
09/27/63	10/09/63	Off sick; not at home when TA representative called
12/13/64	12/17/64	No Report
Various	12/31/64	Off sick; not at home when TA representative called
06/22/65	07/01/65	Failed to follow instructions and misrouted a train
03/09/66	03/22/66	Off sick; not at home when TA representative called
02/19/68	02/29/68	Gave misinformation; resulting in a wrong route
03/12/70	03/28/70	Failed to advise Command Center of track circuit failure; failed to give 'Call-on'

Warnings:-

Occurred	Issued	
07/12/62	07/15/62	Prematurely closed doors, causing female passenger to be struck by same
06/23/63	07/12/63	Rode in cab at operating position
10/12/63	10/15/63	Late Report

Departmental Hearings:- None

Trial Board Hearings:- None

BEST COPY AVAILABLE

RECAP:- 08/Cautions
03 Warnings:

TOP SHEET

09/15/71

2976a

Exhibit K

1-1-66 - 11/16/71

RECORD OF SICK LEAVE

Return to: Absentee Control Section, Room 620, 370 [illegible] Street

Enter All Sick Absences Subsequent to Date Indicated

Final Entry Should Show Present Sick Leave Balance

NAME BEAZER TITLE T/M PASS NO. 053030

DEPARTMENT RT WORK LOCATION

Absences Number of Days

From	To	R.D.O.	With Pay	Without Pay	Balance	
1/1/66					43	
3/9		SS		1	43	166L
4/6			1		42	
5/1					54	
6/21	6/22		2		52	
9/8	9/10	SM	3		49	
10/2		TF	1		48	
10/30		TW		1	48	166H
12/6		WT	1		47	
2/22/67	2/3	TW	2		45	
3/26			1		44	
4/15	4/16		2		42	
5/1					54	
5/4			1		53	
7/11		WT	1		52	
7/22	7/23		2		50	
9/5			1		49	

Entries made by: Date:

2977a

Exhibit K

RECORD OF SICK ABSENCE

Return to: [illegible] Control Section, Room [illegible], 370 Jay [illegible]

Enter All Sick Absences Subsequent to Date Indicated

Final Entry Should Show Present Sick Leave Balance

NAME _____ TITLE _____ PASS NO. _____

DEPARTMENT _____ WORK LOCATION _____

Absences _____ Number of Days _____

From	To	R.D.O.	With Pay	Without Pay	Balance	
9/23/67		WT	2		47	
10/10			1		46	
10/14	10/17		4		41	
11/14				1	41	166H
12/20/68		↓		1	41	166H
4/18	4/19	TW		2	39	
5/1					51	
5/13			1		50	
7/21			1		49	
8/31			1		48	
9/26	9/30		5		43	
10/27	10/28		2		41	
11/1	11/2		2		39	
1/27/69	1/6		5		34	
3/27			1		33	
4/3	4/4		2		31	
4/6	4/11	↓	4		27	

Entries made by: _____ Date: _____

2978a

Exhibit K

RECORD OF SICK ABSENCES

Return to: Examination Control Section, Room 1632, 450 Golden Gate Avenue

Enter All Sick Absences Subsequent to Date Indicated

Final Entry Should Show Present Sick Leave Balance

NAME _____ TITLE _____ PASS NO. _____

DEPARTMENT _____ WORK LOCATION _____

Absence — Number of Days

From	To	R.D.O.s	With Pay	Without Pay	Balance
5/1/69					39
6/1	6/2	TW	2		37
6/19			1		36
6/30			1/4		35 3/4
7/17			1		34 3/4
8/22	8/30		3		31 3/4
10/8	10/9	SM	2		29 3/4
11/1			1		28 3/4
12/4			1		27 3/4
12/19		SS	1		26 3/4
1/20/70	1/21		2		24 3/4
2/3	2/6		4		20 3/4
3/24	3/25		2		18 3/4
5/1					30 3/4
8/31	9/1		2		28 3/4
4/26	4/30		5		23 3/4
5/1					35 3/4

Entries made by: _____ Date: _____

2979a

Exhibit K

RECORD OF SICK ABSENCE

Return to: Allegation Control Section, Room 639, 377 Jay Street

Enter All Sick Absences Subsequent to Date Indicated

Final Entry Should Show Present Sick Leave Balance

NAME _____ TITLE _____ PASS NO. _____

DEPARTMENT _____ WORK LOCATION _____

Absence — Number of Days

From	To	Reason	With Pay	Without Pay	Balance
5/1/71	6/20	S-S; F-S	35 3/4		0
6/20					30-60%
6/20	7/11	↓	15 1/4		14 3/4 - 60%

NO UNAUTHORIZED ABSENCES 11/66 TO PRESENT

Entries made by: _____ Date: 11/16/67

L

Exhibit L—Jose R. Reyes Transit Authority Record (Excerpt)

Service and Disciplinary Record

Name: Jose Reyes - V & D Maintainer - Pass #741617

Residence: 12-11 31st Street, Astoria, Queens, New York 11102

Date of Birth: 4/26/45

Service Record: 4/29/68 [illegible]tad Mtr. Helper "B" (perm.)
4/26/70 " V & D Mtr. (Prov.)
7/ 5/70 " V & D Mtr. (Perm.)

Rate: 4.945/hr.

Cautions: 6 on attendance

Reprimand: See Dept. Hearing

Hearings:

Departmental: 1969 , drinking an alcoholic beverage, 1 day suspension
1970 , attendance - reprimand

Trial Board: None

Exhibit L

NEW YORK CITY TRANSIT AUTHORITY - MAINTENANCE OF WAY DEPT.

ATTENDANCE RECORD

JOSE REYES

	1970	1971
Jan.	3	2
Feb.	3	-
March	4	7
April	1	2
May	3	1
June	1	1
July	2	2
Aug.	3	2
Sept.	3	1
Oct.	1	Susp. (11/8/71)
Nov.	1	Susp.
Dec.	2	Susp.
	27 (Not incl. 10 vac. days)	18 (Not incl. 10 vac. days)

Recap:

Sick	17	14
Pers. Bus.	3	3
AVA (vac.day)	5	1
C.S.Exam	1	-
AWOL	1	-
	27	18

Exhibit M—Vannie Smith Transit Authority
Record (Excerpt)

M

TRANSCRIPT OF RECORD

Name:- Vannie A. Smith, Conductor, #836406, Division B1

Address:- 362 Midwood Street, Brooklyn, New York 11225

Birth:- December 2[illegible]th, 1929

Appointed:- Conductor.....December 8th, 1960

Assignment:- #204 Franklin Shuttle; 11:59AM to 7:43PM; RDO's - Sat/Sun

Rate of Pay:- $4.78.75 per hour

Commendations:-

Cautions:-

Occurred	Issued	
12/29/60	01/31/61	Reported sick; not at home when a TA representative called
12/2461	01/08/62	No Report
01/15/62	04/17/62	Failed to turn in 1961 Pass and obtain 1962 Pass
05/19/62	05/21/62	Late Report
09/16/62	09/18/62	Late Report
09/24/62	09/24/62	Late Sick Report
10/27/62	11/01/62	No Report
11/16/62	11/16/62	Late Report
11/26/62	11/26/62	No Report
05/16/63	05/17/63	No Report
07/08/63	07/19/63	Reported sick; not at home when a TA representative called
08/29/63	09/09/63	Riding in cab enroute between stations; reading a newspaper
12/19/63	12/26/63	Late Report
12/31/63	12/31/63	Late Sick Report
Various	03/20/64	Off sick; failed to submit Sick Leave Applications
04/30/64	05/05/64	No Report
07/24/64	08/07/64	Reported sick; not at home when a TA representative called
08/15/64	08/18/64	Late Report
09/10/64	09/14/64	Late Report
09/22/64	09/25/64	No Report
10/29/64	11/19/64	Reported sick; not at home when a TA representative called
12/17/64	12/31/64	Reported sick; not at home when a TA representative called
03/05/65	05/05/65	Failed to turn in 1964 Pass for 1965 Pass
08/25/65	09/02/65	Rode in cab enroute between stations
08/30/65	09/09/65	No Report
09/14/65	09/20/65	No Report
06/12/66	06/21/66	No Report - RDO
08/24/66	09/12/66	No Report - Special
09/30/66	10/12/66	No Report - Special
07/15/66	09/29/66	Reported sick; not at home when a TA representative called
07/22/66	09/29/66	Reported sick; negative findings by TA physician
11/01/67	11/08/67	Reported sick; negative findings by TA pgysician
02/02/68	04/17/68	Off sick; failed to submit Sick Leave Application
10/01/68	11/01/68	Reported sick; not at home when a TA representative called
06/09/69	06/09/69	Reported sick; not at home when a TA representative called
10/22/69	10/24/69	Late Report
02/04/70	02/17/70	Observed smoking in cab

Continued on Page #2

87

Exhibit M

TRANSCRIPT OF RECORD

CONTINUED

NAME:- VANNIE A. SMITH, CONDUCTOR, #836406, DIVISION B1

Cautions:-(Cont'd.)

Occurred	Issued	
10/29/70	11/01/70	Late Report
11/10/70	11/11/70	Late Sick Report
04/16/71	04/16/71	Late Sick Report
05/11/71	05/17/71	No Report
06/24/71	06/24/71	Late Report
06/28/71	06/29/71	No Report
07/14/71	07/15/71	Late Report
10/20/71	10/26/71	Late Report
10/28/71	10/31/71	No Report
06/26/72	06/29/72	No Report
06/30/72	07/10/72	Late Sick Report
07/17/72	07/21/72	No Report
08/01/72	08/18/72	Reported sick; not at home when a TA representative called
09/08/72	09/11/72	Late Sick Report

Warnings:-

Occurred	Issued	
02/20/61	02/24/61	Late Report
01/07/62	01/11/62	Late Report
02/12/62	02/20/62	Late Sick Report
04/30/62	05/03/62	Late Report
09/08/62	09/11/62	Late Report
02/09/63	02/12/63	Late Report
05/12/63	05/13/63	Late Report
06/08/63	06/10/63	Late Report
10/29/63	11/15/63	Failed to immediately report loss of Pass
05/07/64	05/21/64	Late Report
07/28/64	08/07/64	Late Report
08/11/64	08/14/64	Late Report

Departmental Hearings:-

Occurred	Held	
Various	12/11/62	Poor record; accumulation of Cautions and Warnings Charges Sustained - Two (2) day Suspension
Various	02/11/64	Poor record; accumulation of Cautions and Warnings Charges Sustained - Three (3) day Suspension
05/15/68	07/02/68	Away from assigned post Charges Sustained - Two (2) day Suspension
Various	11/18/71	Poor record; accumulation of Cautions Charges Sustained - Three (3) day Suspension

Continued on Page #3

Exhibit M

TRANSCRIPT OF RECORD

CONTINUED

NAME:- VANNIE A. SMITH, CONDUCTOR, #836406, DIVISION B1

Trial Board Hearings:-

Occurred	Held	
Various	11/24/64	Violation of Attendance and Sick Leave Rules Charges Sustained - Twelve (12) day Suspension

RECAP:- 51 Cautions
12 Warnings
04 Departmental Hearings
01 Trial Board Hearing

10/30/72

Exhibit P—Transit Authority "EEO-4" Forms

P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATE AND LOCAL GOVERNMENT INFORMATION (EEO-4)

EXCLUDE SCHOOL SYSTEMS AND EDUCATIONAL INSTITUTIONS

(Read attached instructions prior to completing this form)

FORM APPROVED OMB NO. 124 R0059

1974 TA - Excluding Police

MAIL COMPLETED FORM TO:

A. TYPE OF GOVERNMENT (Check one box only)

☐ 1. State ☐ 2. County ☐ 3. City ☐ 4. Township ☐ 5. Special district

☐ 6. Other (Specify) _____

B. IDENTIFICATION

1. NAME OF POLITICAL JURISDICTION (If same as label, skip to Item C)

EEOC USE ONLY A

2. Address - Number and Street	CITY/TOWN	COUNTY	STATE, ZIP

B

C. FUNCTION

(Check one box to indicate the function for which this form is being submitted. Data should be reported for all departments and agencies in your government covered by the function indicated. If you cannot supply the data for every agency within the function, please attach a list showing name and address of agencies whose data are not included.)

☐ 1. FINANCIAL ADMINISTRATION Tax assessing, tax billing and collection, budgeting, purchasing, central accounting and similar financial administration carried on by a treasurer's, auditor's or comptroller's office and

GENERAL CONTROL Duties usually performed by boards of supervisors or commissioners, central administrative offices and agencies, central personnel or planning agencies, all judicial offices and employees (judges, magistrates, bailiffs, etc.)

☐ 2. STREETS AND HIGHWAYS Maintenance, repair, construction and administration of streets, alleys, sidewalks, roads, highways and bridges.

☐ 3. PUBLIC WELFARE Administration of homes and other institutions for the needy; administration of public assistance. (Hospitals and sanitariums should be reported as item 7.)

☐ 4. POLICE PROTECTION Duties of a police department, sheriff's, constable's, coroner's office etc. including technical and clerical employees employed in police activities

☐ 5. FIRE PROTECTION Duties of the uniformed fire force and clerical employees (Report any forest fire protection activities on item 6.)

☐ 6. NATURAL RESOURCES Administration, forestry, forest fire protection, irrigation, drainage, flood control, etc. and

PARKS AND RECREATION Operation, maintenance and operation of parks, playgrounds, swimming pools, auditoriums, museums, marinas, zoos, etc.

☐ 7. HOSPITALS AND SANITARIUMS Operation and maintenance of institutions for inpatient medical care

☐ 8. HEALTH Provision of public health services, out-patient clinics, visiting nurses, food and sanitary inspections, mental health, etc.

☐ 9. HOUSING Code enforcement, low rent public housing, fair housing ordinance enforcement, housing for elderly, housing rehabilitation, rent control

☐ 10. COMMUNITY DEVELOPMENT Planning, zoning, land development, open space, beautification, preservation

☐ 11. CORRECTIONS Jails, reformatories, detention homes, half-way houses, prisons, parole and probation activities

☐ 12. UTILITIES AND TRANSPORTATION Includes water supply, electric power, transit, gas, airports, water transportation and terminals

☐ 13. SANITATION AND SEWAGE Street cleaning, garbage and refuse collection and disposal; Provision, maintenance and operation of sanitary and storm sewer systems and sewage disposal plants

☐ 14. EMPLOYMENT SECURITY

☐ 15. OTHER (Specify)

EEO-4 (6-69) 164 MAY 73

Exhibit P

D. EMPLOYMENT DATA AS OF JUNE 30

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES	ANNUAL SALARY (In Thousands) (000)	MALE						FEMALE					
		WHITE A	BLACK B	SPAN. SURNAME AMER. C	ASIAN AMER. D	AMER. IND. E	OTHER F	WHITE G	BLACK H	SPAN. SURNAME AMER. I	ASIAN AMER. J	AMER. IND. K	OTHER L
OFFICIALS/ ADMINISTRATORS	1. $ 0.1-3.9												
	2. 4.0-5.9												
	3. 6.0-7.9												
	4. 8.0-9.9												
	5. 10.0-12.9	39	15	1				21	24				
	6. 13.0-15.9	56	5	1				30	14				
	7. 16.0-24.9	749	350	31				6					
	8. 25.0 PLUS	107	13					1					
PROFESSIONALS	9. 0.1-3.9												
	10. 4.0-5.9												
	11. 6.0-7.9												
	12. 8.0-9.9	28	2					5	3				
	13. 10.0-12.9	75	11	5	2		1	20	10		1		
	14. 13.0-15.9	391	48	9	19			10	3		1		
	15. 15.0-24.9	623	90	10	14			10	1	1			
	16. 25.0 PLUS	5											
TECHNICIANS	17. 0.1-3.9												
	18. 4.0-5.9		1										
	19. 6.0-7.9	16	1	1	1								
	20. 8.0-9.9	23	7	1					2				
	21. 10.0-12.9	60	14	2	1			7	3				
	22. 13.0-15.9	70	12	2	1			9	1				
	23. 16.0-24.9	27	9	2									
	24. 25.0 PLUS												
PROTECTIVE SERVICE	25. 0.1-3.9												
	26. 4.0-5.9												
	27. 6.0-7.9												
	28. 8.0-9.9												
	29. 10.0-12.9	142	20	8	1								
	30. 13.0-15.9	2	2										
	31. 16.0-24.9												
	32. 25.0 PLUS												
PARA-PROFESSIONALS	33. 0.1-3.9												
	34. 4.0-5.9												
	35. 6.0-7.9												
	36. 8.0-9.9												
	37. 10.0-12.9												
	38. 13.0-15.9												
	39. 16.0-24.9												
	40. 25.0 PLUS												
OFFICE CLERICAL	41. 0.1-3.9												
	42. 4.0-5.9	52	20	4				87	111	9	1		
	43. 6.0-7.9	48	24	5				213	265	14			
	44. 8.0-9.9	134	63	9				200	175	3			
	45. 10.0-12.9	1443	1367	201	4			280	1268	23	1		
	46. 13.0-15.9	375	383	41	2			11	31				
	47. 16.0-24.9	12	2										
	48. 25.0 PLUS												

5

2987a
Exhibit P

D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES	ANNUAL SALARY (In thousands 000)	MALE						FEMALE					
		WHITE A	BLACK B	SPAN SURNAME AMER. C	ASIAN AMER. D	AMER IND. E	OTHER F	WHITE G	BLACK H	SPAN SURNAME AMER. I	ASIAN AMER. J	AMER IND K	OTHER L
SKILLED CRAFT	49. $ 0 1-3 9												
	50. 4 0 5 9												
	51. 6 0 7 9												
	52. 8 0-9 9												
	53. 10 0-12 9	2197	1247	346	6	1	1						
	54. 13 0-15 9	5981	1741	497	13								
	55. 16 0-24 9	981	303	53	1								
	56. 25 0 PLUS												
SERVICE/ MAINTENANCE	57. 0 1-3 9												
	58. 4 0 5 9												
	59. 6 0 7 9	2											
	60. 8 0-9 9	8											
	61. 10 0-12 9	4598	5844	758	2	1	3	2	3				
	62. 13 0-15 9	1326	2161	172	4	1		3	12				
	63. 16 0-24 9	412	86	16									
	64. $ 25 0 PLUS												
TOT. FULL TIME 38,942	COL. TOTALS →	19952	13841	2175	71	3	5	915	1926	50	4		

2. OTHER THAN FULL TIME EMPLOYEES (Include temporary employees)

1. OFFICIALS / ADMIN.												
2. PROFESSIONALS												
3. TECHNICIANS												
4. PROTECTIVE SERV.												
5. PARA-PROFESSIONAL	19	2	1				8	1				
6. OFFICE / CLERICAL	6	5	1				2	2	1			
7. SKILLED CRAFT	3	3	1									
8. SERV. / MAINT.												
TOTAL OTHER 55	COL. TOTALS →	28	10	3				10	3	1		

3. NEW HIRES DURING FISCAL YEAR - Permanent full time only

(Omit this section in 1973)

1. OFFICIALS / ADMIN.	1											
2. PROFESSIONALS	103	5	5	5		1	6	2				
3. TECHNICIANS	37	5		2			2					
4. PROTECTIVE SERV.	25	2										
5. PARA-PROFESSIONAL												
6. OFFICE / CLERICAL	115	93	15				131	217	11	1		
7. SKILLED CRAFT	455	116	39	2	1	1						
8. SERV. / MAINT.	423	560	113	1	1	3						
TOT. NEW HIRES 2499	COL. TOTALS →	1159	781	172	10	2	5	139	219	11	1	

Exhibit P

REMARKS (List National Crime Information Center (NCIC) numbers assigned to any Criminal Justice Agencies whose data are included in this report.)

CERTIFICATION. I certify that the information given in this report is correct and true to the best of my knowledge and was reported in accordance with accompanying instructions. (Wilfully false statements on this report are punishable by law, U.S. Code, Title 18, Section 1001.)

NAME OF PERSON TO CONTACT REGARDING THIS FORM	TITLE
[illegible]	[illegible]
ADDRESS (Number and Street, City, State, Zip Code)	**TELEPHONE NUMBER AREA CODE**
[illegible]	[illegible]

DATE	TYPED NAME / TITLE OF AUTHORIZED OFFICIAL	SIGNATURE

Exhibit P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
STATE AND LOCAL GOVERNMENT INFORMATION (EEO-4)

EXCLUDE SCHOOL SYSTEMS AND EDUCATIONAL INSTITUTIONS
(Read attached instructions prior to completing this form)

FORM APPROVED OMB NO 124-R0309

1974 T.A. Police

MAIL COMPLETED FORM TO:

A. TYPE OF GOVERNMENT (Check one box only)

☐ 1. State ☐ 2. County ☐ 3. City ☐ 4. Township ☐ 5. Special district

☐ 6. Other (Specify)_____

B. IDENTIFICATION

1. NAME OF POLITICAL JURISDICTION (If same as label, skip to item C)

EEOC USE ONLY A

2. Address - Number and Street	CITY/TOWN	COUNTY	STATE ZIP

B

C. FUNCTION

(Check one box to indicate the function for which this form is being submitted. Data should be reported for all departments and agencies in your government covered by the function indicated. If you cannot supply the data for every agency within the function, please attach a list showing name and address of agencies whose data are not included.)

☐ 1. FINANCIAL ADMINISTRATION Tax assessing, tax billing and collection, budgeting, purchasing, central accounting and similar financial administration carried on by a treasurer's, auditor's or comptroller's office and

GENERAL CONTROL Duties usually performed by boards of supervisors or commissioners, central administrative offices and agencies, central personnel or planning agencies, all judicial offices and employees (judges, magistrates, sheriffs, etc.)

☐ 2. STREETS AND HIGHWAYS Maintenance, repair, construction and administration of streets, alleys, sidewalks, roads, highways and bridges.

☐ 3. PUBLIC WELFARE Maintenance of homes and other institutions for the needy; administration of public assistance; hospitals and sanatoriums should be reported as item 7.

☐ 4. POLICE PROTECTION Duties of a police department, sheriff's, constable's, coroner's office, etc., including technical and clerical employees engaged in police activities.

☐ 5. FIRE PROTECTION Duties of the uniformed fire force and clerical employees (Report any forest fire protection activities as item 6.)

☐ 6. NATURAL RESOURCES Agriculture, forestry, forest fire protection, irrigation, drainage, flood control, etc., and
PARKS AND RECREATION Operation, maintenance and operation of parks, playgrounds, swimming pools, auditoriums, museums, zoos, etc.

☐ 7. HOSPITALS AND SANATORIUMS Operation and maintenance of institutions for the sick and infirm.

☐ 8. HEALTH Provision of public health services, outpatient clinics, visiting nurses, food and sanitary inspections, mental health, etc.

☐ 9. HOUSING Code enforcement, low rent public housing, fair housing or ordinance enforcement, housing for elderly, housing rehabilitation, rent control.

☐ 10. COMMUNITY DEVELOPMENT Planning, zoning, land development, open space, beautification, preservation

☐ 11. CORRECTIONS Jails, reformatories, detention homes, half-way houses, prisons, parole and probation activities

☐ 12. UTILITIES AND TRANSPORTATION Includes water supply, electric power, transit, gas, airports, water transportation and terminals

☐ 13. SANITATION AND SEWAGE Street cleaning, garbage and refuse collection and disposal. Provision, maintenance and operation of sanitary and storm sewer systems and sewage disposal plants

☐ 14. EMPLOYMENT SECURITY

☐ 15. OTHER (Specify)

2990a

Exhibit P

D. EMPLOYMENT DATA AS OF JUNE 30

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES		ANNUAL SALARY (In Thousands) (000)	MALE						FEMALE					
			WHITE A	BLACK B	SPAN SURNAME AMER C	ASIAN AMER D	AMER IND E	OTHER F	WHITE G	BLACK H	SPAN SURNAME AMER I	ASIAN AMER J	AMER IND K	OTHER L
OFFICIALS/ ADMINISTRATORS	1.	0 1-3 9												
	2	4 0-5 9												
	3.	6 0-7 9												
	4	8 0-9 9												
	5	10 0-12 9												
	6	13 0-15 9												
	7	16 0-24 9												
	8.	25 0 PLUS	57	4										
PROFESSIONALS	9	0 1-3 9												
	10	4 0-5 9												
	11	6 0-7 9												
	12	8 0-9 9												
	13	10 0-12 9												
	14	13 0-15 9												
	15	16 0-24 9	75	28	3				1					
	16.	25 0 PLUS												
TECHNICIANS	17	0 1-3 9												
	18	4 0-5 9												
	19	6 0-7 9												
	20	8 0-9 9												
	21	10 0-12 9												
	22.	13 0-15 9												
	23	16 0-24 9	176	46	1									
	24.	25 0 PLUS												
PROTECTIVE SERVICE	25	0 1-3 9												
	26.	4 0-5 9												
	27.	6 0-7 9												
	28	8 0-9 9												
	29.	10 0-12 9	404	71	38	1		1	1					
	30	13 0-15 9	1176	604	99				3					
	31	16 0-24 9	145	44	12				9	2				
	32.	25 0 PLUS												
PARA-PROFESSIONALS	33	0 1-3 9												
	34	4 0-5 9												
	35	6 0-7 9	4											
	36	8 0-9 9												
	37	10 0-12 9												
	38	13 0-15 9												
	39	16 0-24 9												
	40.	25 0 PLUS												
OFFICE/ CLERICAL	41	0 1-3 9												
	42	4 0-5 9	2					1	3	2		1		
	43	6 0-7 9		1					21	18				
	44	8 0-9 9	2	4					29	22	1			
	45	10 0-12 9	1						1					
	46	13 0-15 9												
	47	16 0-24 9												
	48	25 0 PLUS												

Exhibit P

D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES	ANNUAL SALARY (In thousands 000)	MALE						FEMALE					
		WHITE A	BLACK B	SPAN SURNAME AMER C	ASIAN AMER D	AMER IND E	OTHER F	WHITE G	BLACK H	SPAN SURNAME AMER I	ASIAN AMER J	AMER IND K	OTHER L
SKILLED CRAFT	49 $ 0.1-3.9												
	50 4.0-5.9												
	51 6.0-7.9												
	52 8.0-9.9												
	53 10.0-12.9												
	54 13.0-15.9												
	55 16.0-24.9												
	56 25.0 PLUS												
SERVICE/ MAINTENANCE	57 0.1-3.9												
	58 4.0-5.9												
	59 6.0-7.9												
	60 8.0-9.9												
	61 10.0-12.9												
	62 13.0-15.9												
	63 16.0-24.9												
	64 $ 25.0 PLUS												
TOT. FULL TIME 3714	COL. TOTALS →	2642	802	153	1		2	68	44	1	1		

2. OTHER THAN FULL TIME EMPLOYEES (Include temporary employees)

1. OFFICIALS / ADMIN.													
2. PROFESSIONALS													
3. TECHNICIANS													
4. PROTECTIVE SERV.													
5. PARA-PROFESSIONAL								1		1			
6. OFFICE / CLERICAL													
7. SKILLED CRAFT													
8. SERV. / MAINT.													
TOTAL OTHER 2	COL. TOTALS →							1		1			

3. NEW HIRES DURING FISCAL YEAR - Permanent full time only

(Omit this section in 1973)

1. OFFICIALS / ADMIN.													
2. PROFESSIONALS													
3. TECHNICIANS													
4. PROTECTIVE SERV.	382	63	36	1		1							
5. PARA-PROFESSIONAL													
6. OFFICE / CLERICAL		1		1		1	6	13		1			
7. SKILLED CRAFT													
8. SERV. / MAINT.													
TOT. NEW HIRES 505	COL. TOTALS →	382	64	36	1		2	6	13		1		

Exhibit P

REMARKS (List National Crime Information Center (NCIC) numbers assigned to any Criminal Justice Agencies whose data are included in this report.)

CERTIFICATION. I certify that the information given in this report is correct and true to the best of my knowledge and was reported in accordance with accompanying instructions. (Wilfully false statements on this report are punishable by law, U.S. Code, Title 18. Section 1001.)

NAME OF PERSON TO CONTACT REGARDING THIS FORM	TITLE
ADDRESS (Number and Street, City, State, Zip Code)	TELEPHONE NUMBER AREA CODE

DATE	TYPED NAME / TITLE OF AUTHORIZED OFFICIAL	SIGNATURE

2993a

Exhibit P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATE AND LOCAL GOVERNMENT INFORMATION (EEO-4)

EXCLUDE SCHOOL SYSTEMS AND EDUCATIONAL INSTITUTIONS

(Read attached instructions prior to completing this form)

FORM APPROVED OMB NO 124-0011

1974 O/A

MAIL COMPLETED FORM TO

A. TYPE OF GOVERNMENT (Check one box only)

☐ 1. State ☐ 2. County ☐ 3. City ☐ 4. Township ☐ 5. Special district

☐ 6. Other (Specify) _____

B. IDENTIFICATION

1. NAME OF POLITICAL JURISDICTION (If same as label, skip to Item C)

EEOC USE ONLY A

2. Address - Number and Street	CITY/TOWN	COUNTY	STATE/ZIP

B

C. FUNCTION

(Check one box to indicate the function for which this form is being submitted. Data should be reported for all departments and agencies in your government covered by the function indicated. If you cannot supply the data for every agency within the function, please attach a list showing name and address of agencies whose data are not included.)

☐ 1. FINANCIAL ADMINISTRATION Tax assessing, tax billing and collection, budgeting purchasing, central accounting and similar financial administration carried on by a treasurer's, auditor's or comptroller's office and

GENERAL CONTROL Duties usually performed by boards of supervisors or commissioners, central administrative offices and agencies, central personnel or planning agencies, all judicial offices and employees (judges, magistrates, bailiffs etc.)

☐ 2. STREETS AND HIGHWAYS Maintenance, repair, construction and administration of streets, alleys, sidewalks, roads, highways and bridges

☐ 3. PUBLIC WELFARE Maintenance of homes and other institutions for the needy; administration of assistance (Hospitals and sanatoriums should be reported as item 7.)

☐ 4. POLICE PROTECTION Duties of a police department, sheriff's, constable's, coroner's office, etc., including technical and clerical employees engaged in police activities.

☐ 5. FIRE PROTECTION Duties of the uniformed fire force and clerical employees (Report duties of forest fire protection activities as item 6.)

☐ 6. NATURAL RESOURCES Agriculture, forestry, forest fire protection, irrigation [illegible] and
PARKS AND RECREATION Programs, maintenance and operation of parks, playgrounds, [illegible]

☐ 7. [illegible] AND SANATORIUMS Operation and maintenance of institutions [illegible]

☐ 8. HEALTH Provision of public health services, out-patient clinics, visiting nurses, food and sanitary inspections, mental health, etc.

☐ 9. HOUSING Code enforcement, low rent public housing, fair housing ordinance enforcement, housing for elderly, housing rehabilitation, rent control

☐ 10. COMMUNITY DEVELOPMENT Planning, zoning, land development, urban renewal, beautification, preservation

☐ 11. CORRECTIONS Jails, reformatories, detention homes, halfway houses, prisons, parole and probation activities

☐ 12. UTILITIES AND TRANSPORTATION Includes water supply, electric power, transit, gas, airports, water transportation and terminals

☐ 13. SANITATION AND SEWAGE Street cleaning, garbage and refuse collection and disposal. Provision, maintenance and operation of sanitary and storm sewer systems and sewage disposal plants.

☐ 14. EMPLOYMENT SECURITY

☐ 15. OTHER (Specify)

[illegible]

2994a

Exhibit P

D. EMPLOYMENT DATA AS OF JUNE 30

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES		ANNUAL SALARY (In Thousands) (000)	MALE						FEMALE					
			WHITE A	BLACK B	SPAN SURNAME AMER C	ASIAN AMER. D	AMER IND E	OTHER F	WHITE G	BLACK H	SPAN SURNAME AMER I	ASIAN AMER J	AMER IND K	OTHER L
OFFICIALS/ ADMINISTRATORS	1.	$ 0.1-3.9												
	2.	4.0-5.9												
	3.	6.0-7.9												
	4.	8.0-9.9												
	5.	10.0-12.9	3	1					8	2				
	6.	13.0-15.9	1	1					5					
	7.	16.0-24.9	121	23	5				1					
	8.	25.0 PLUS	7	2										
PROFESSIONALS	9.	0.1-3.9												
	10.	4.0-5.9												
	11.	6.0-7.9												
	12.	8.0-9.9	2							4				
	13.	10.0-12.9	6	2	1				5	1	1			
	14.	13.0-15.9	14	1					2		2			
	15.	16.0-24.9	11	3										
	16.	25.0 PLUS	2											
TECHNICIANS	17.	0.1-3.9												
	18.	4.0-5.9	1		1					2				
	19.	6.0-7.9												
	20.	8.0-9.9	3	3	1									
	21.	10.0-12.9	15	4	3									
	22.	13.0-15.9	9	3										
	23.	16.0-24.9	3											
	24.	25.0 PLUS												
PROTECTIVE SERVICE	25.	0.1-3.9												
	26.	4.0-5.9												
	27.	6.0-7.9												
	28.	8.0-9.9												
	29.	10.0-12.9	38	8										
	30.	13.0-15.9												
	31.	16.0-24.9												
	32.	25.0 PLUS												
PARA-PROFESSIONALS	33.	0.1-3.9												
	34.	4.0-5.9												
	35.	6.0-7.9												
	36.	8.0-9.9												
	37.	10.0-12.9												
	38.	13.0-15.9												
	39.	16.0-24.9												
	40.	25.0 PLUS												
OFFICE/ CLERICAL	41.	0.1-3.9												
	42.	4.0-5.9												
	43.	6.0-7.9		4	1				9	38	7	1		
	44.	8.0-9.9	2	2	3				33	38	9	1		
	45.	10.0-12.9	128	16	5				29	7				
	46.	13.0-15.9	18											
	47.	16.0-24.9												
	48.	25.0 PLUS												

Exhibit P

D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)

(Do not include elected/appointed officials. Blanks will be counted as zero)

1. FULL TIME EMPLOYEES (Temporary employees not included)

JOB CATEGORIES	ANNUAL SALARY (In thousands 000)	MALE						FEMALE					
		WHITE A	BLACK B	SPAN SURNAME AMER C	ASIAN AMER D	AMER IND E	OTHER F	WHITE G	BLACK H	SPAN SURNAME AMER I	ASIAN AMER J	AMER IND K	OTHER L
SKILLED CRAFT	49 $ 0.1-3.9												
	50 4.0-5.9												
	51 6.0-7.9												
	52 8.0-9.9	6	1										
	53 10.0-12.9	187	49	19									
	54 13.0-15.9	698	46	9									
	55 16.0-24.9												
	56 25.0 PLUS												
SERVICE/ MAINTENANCE	57 0.1-3.9												
	58 4.0-5.9												
	59 6.0-7.9												
	60 8.0-9.9	8											
	61 10.0-12.9	2245	1416	499	4				1				
	62 13.0-15.9	53	24	3									
	63 16.0-24.9	344	98	15									
	64 $ 25.0 PLUS												
TOT. FULL TIME 6418	COL TOTALS →	3935	1707	565	4			92	94	19	2		

2. OTHER THAN FULL TIME EMPLOYEES (Include temporary employees)

1. OFFICIALS / ADMIN.													
2. PROFESSIONALS									1				
3. TECHNICIANS													
4. PROTECTIVE SERV.													
5. PARA PROFESSIONAL	1	3											
6. OFFICE / CLERICAL													
7. SKILLED CRAFT													
8. SERV. / MAINT.													
TOTAL OTHER 4	COL TOTALS →	1	3										

3. NEW HIRES DURING FISCAL YEAR - Permanent full time only

(Omit this section in 1973)

1. OFFICIALS / ADMIN								1					
2. PROFESSIONALS	7							1	1		1		
3. TECHNICIANS	2	2	2						2				
4. PROTECTIVE SERV.													
5. PARA PROFESSIONAL													
6. OFFICE / CLERICAL	2	3	1					8	21	7	1		
7. SKILLED CRAFT	27	6	4										
8. SERV. / MAINT.	215	152	86	3					1				
TOT. NEW HIRES 556	COL TOTALS →	253	163	93	3			10	25	7	2		

REMARKS (List National Crime Information Center (NCIC) numbers assigned to any Criminal Justice Agencies whose data are included in this report.)

CERTIFICATION. I certify that the information given in this report is correct and true to the best of my knowledge and was reported in accordance with accompanying instructions. (Wilfully false statements on this report are punishable by law, U.S. Code, Title 18, Section 1001.)

NAME OF PERSON TO CONTACT REGARDING THIS FORM	TITLE
ADDRESS (Number and Street, City, State, Zip Code)	TELEPHONE NUMBER AREA CODE

DATE	TYPED NAME / TITLE OF AUTHORIZED OFFICIAL	SIGNATURE

in this report:

	are not performed by your jurisdiction:	at a later date. Specify date of filing next to function:
1. Financial Administration	1. Financial Administration	1. Financial Administration
2. Streets and Highways	2. Streets and Highways	2. Streets and Highways
3. Public Welfare	3. Public Welfare	3. Public Welfare
4. Police Protection	4. Police Protection	4. Police Protection
5. Fire Protection	5. Fire Protection	5. Fire Protection
6. Natural Resources	6. Natural Resources	6. Natural Resources
7. Hospitals & Sanatoriums	7. Hospitals & Sanitoriums	7. Hospitals & Sanatoriums
8. Health	8. Health	8. Health
9. Housing	9. Housing	9. Housing
10. Community Development	10. Community Development	10. Community Development
11. Corrections	11. Corrections	11. Corrections
12. Utilities & Transportation	12. Utilities & Transportation	12. Utilities & Transportation
13. Sanitation & Sewage	13. Sanitation & Sewage	13. Sanitation & Sewage
14. Employment Security	14. Employment Security	14. Employment Security
15. Other	15. Other	15. Other

D. As stated on page 2 of instruction booklet, if one official can certify as to the accuracy and completeness of the entire EEO-4 report, the following certification may be used:

CERTIFICATION: I certify that the information in this report is correct, true, and complete to the best of my knowledge and was reported in accordance with the instructions. (Willfully false statements on this report are punishable by law, U. S. Code, Title 18, Section 1001).

DATE	TYPED NAME/TITLE OF AUTHORIZED OFFICIAL	SIGNATURE
9/27/74	W. B. McLaren, Executive Officer Labor Relations & Personnel	W B McLaren

2997a Exhibit P

D's Exhibit U 1/4/)

2998a

Exhibit U—Report of Councilman Carter Burden Regarding Methadone Treatment Program Records

THE COUNCIL

STATED MEETING

Thursday, December 20, 1973, 1.30 o'Clock P.M.

Sanford D. Garelik, President of the Council

Councilmen

Thomas J. Cuite Vice-Chairman	Howard Golden	Edward L. Sadowsky
Angelo J. Arculeo	Mrs. Carol Greitzer	Barry Salman
Frank J. Biondolillo	Kenneth Haber	Saul S. Sharison
Carter Burden	Leon A. Katz	Theodore Silverman
Eldon R. Clingan	Mrs. Ruth Lerner	Stanley Simon
Monroe Cohen	Thomas J. Manton	Mrs. Muriel Stromberg
Edward V. Curry	Eugene F. Mastropieri	Charles L. Taylor
Michael DeMarco	Anthony J. Mercorella	William C. Thompson
Rudolph F. DiBlasi	Robert I. Postel	Matthew J. Troy, Jr.
Alvin Frankenberg	Morton Povman	Walter Ward
David B. Friedland	A. Joseph Ribustello	Theodore S. Weiss
Anthony R. Gaeta	Frederick W. Richmond	
	Mrs. Aileen B. Ryan	

Excused: Mr. Katzman.

The presence of a quorum was announced by the President of the Council.

The Invocation was delivered by Dr. Richard Francis, Pastor, John Street United Methodist Church, 44 John Street, New York, New York.

INVOCATION

Our Father, in this Holy Season we invoke Thy Devine blessing at this Council meeting. Guide and direct us in our deliberations—and may the decisions and plans made here meet with Thy approval.

Bless and strengthen our Chairman—and may Thy presence be felt in this great City and by those who dwell therein.

May Thy blessings be upon our loved ones at home and with the forgiveness of our sins. We ask this in the Master's name. Amen.

Mr. Sharison moved that the Invocation be spread in full upon the Minutes and adopted.

ADOPTION OF MINUTES

Mr. Clingan moved that the Minutes of the Stated Meeting of December 10, 1973 be adopted as printed.

CALL FOR STATED MEETING

M-1017

Hon. HERMAN KATZ, *City Clerk and Clerk of the Council,* Municipal Building, New York, N. Y. 10007:

Dear Mr. Katz,—Please be advised that there will be a Stated Meeting of The Council, on Thursday, December 20, 1973, at 1:30 p. m., in the Council Chambers, second floor, City Hall. New York, N. Y.

Very truly yours, SANFORD D. GARELIK, President, THOMAS J. CUITE, Vice-Chairman.

Received, ordered printed and filed.

RECOGNITION OF VISITORS

At the request of Councilwoman Aileen B. Ryan the President (Mr. Garelik) recognized the following people: Emma and Edward O'Neil, Barbara McDuffa and Mary Phalen of Norwood and Parkside Place Committee of Bronx County. The President (Mr. Garelik) then extended the privileges of the floor to all the guests and wished them well.

Exhibit U

MESSAGES AND PAPERS FROM THE MAYOR

M-1018

Communication From the Mayor—Approving Amendment of the 1973-1974 and 1968-1969 Capital Budgets, as follows:

1973-1974 Capital Budget

Add New Line 471b, Project HO-358. A Comprehensive Program of Renovation and Improvement of Hospital Buildings and Grounds, All Boroughs, in the Amount of $9,335,000; Decrease Line 484, Project HO-277 (MH-41A), Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations from $7,000,000 (Allocated to Hospital Facilities) to O.

1968-1969 Capital Budgets

Decrease Line 311, Project HO-277, Neighborhood Family Care Center at the existing Morrisania Hospital Bronx, New Construction and Alterations, From $204,550 to $58,081.

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1973-1974 Capital Budget under the Health Services, as follows:

Line	Project	Title	1973-1974 Capital Budget
471b	HO-358	A Comprehensive Program of Renovation and Improvement of Hospital Buildings and Grounds, All Boroughs	$9,335,000 00
		DEPARTMENT OF HOSPITALS	
		BRONX	
311	HO-277	Neighborhood Family Care Center at the Existing Morrisania Hospital, Bronx, New Construction and Alterations.	
		Delete	$204,550 00
		Substitute	58,081 00
484	HO-277 (MH-41A)	Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations.	
		Delete	7,000,000 00
		Substitute	0

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours,

JOHN V. LINDSAY, Mayor.

November 13, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—On November 13, 1973, the Acting Senior Vice President for Capital and Support Services of the New York City Health and Hospitals Corporation submitted for consideration an amendment to the 1973-1974 Capital Budget to provide $9,335,000 in funds under a new Capital Project HO-358, to provide for a Comprehensive Repair and Maintenance Program at Various Hospitals.

On May 24, 1972, the Governor signed into Law, Chapter 474, Laws of 1972, an amendment to Section 11.00 of the Local Finance Law (Subdivision 77), authorizing the use of five year serial bonds to finance a comprehensive program of renovation or improvement of public buildings.

The proposed amendment to the 1973-1974 Capital Budget will provide $9,335,000 in funds for a comprehensive renovations and improvements program. This amount, which has been requested to be charged to the 1973-1974 Capital Budget by amendment, is that portion of the overall maintenance and repair program which is a proper capital expenditure in accordance with the above amendment to the Local Finance Law. The adopted 1973-1974 Expense Budget includes a total amount of $21,160,000 of Capital Budget funds. Part of these funds are provided in the 1973-1974 Capital Budget but a portion of these funds, in the amount of $9,335,000 for the subject program, is not included. This request for a budget amendment is needed to correlate the funding between the two budgets.

The objectives of this program are to provide renovations and improvements in hospitals and related buildings designed to maintain or extend their useful lives by providing minimum necessary levels of lighting, properly functioning systems for heating, ventilating, plumbing, insulation and water impenetrability, and proper protection of interior ceiling, floor and wall systems.

The proposed funding of this program would encompass $3,000,000 for work under contract such as:

(a) General Comprehensive Renovations of Buildings—to restore existing areas and systems to prime condition where remaining useful life precludes major reconstruction.

(b) Periodic Painting—to restore interior ceiling, floor and wall systems to maintain their intended useful life.

(c) Periodic Systems Inspections and Improvements—to identify systems or equipment in need of partial or total replacement in a building to maintain the intended useful life of these systems and buildings they service.

In addition there is an amount of $6,335,000 for Personnel Services and Fringe Benefits for projects to be advanced by in-house personnel.

In view of the foregoing, the following amendment to the 1973-1974 Capital Budget will be required:

GENERAL HEALTH SERVICES

Line	Project	Title	Total Estimated Cost	1973-1974 Capital Budget
New	HO-358	A Comprehensive Program of Renovation and Improvement of Hospital Buildings and Grounds All Boroughs	Continuing Project	$9,335,000 00

In order to finance this new capital project funds may be made available from two sources:

(a) Capital Project HO-277.

The 1973-1974 Capital Budget Project HO-277, Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations together with available funds from prior authorizations provides $7,146,469 which may be used to defray part of the cost of new capital project HO-358. This project is being constructed by The New York State Facilities Development Corporation and it was originally estimated that the project would be completed by October 1, 1973. However, since this project has been amended to include a mental health component, the completion date has been revised to April 1975, and the funds previously provided will not be required in the 1973-1974 Capital Budget.

(b) The balance of the funds required for new Capital Project HO-358 ($9,335,000—$7,146,469) or $2,188,531 may be provided from the City's Capital Budget reserve.

Accordingly, in addition to the above amendment which provides for the addition of Capital Project HO-358 to the 1973-1974 Capital Budget, it is proposed that the funds previously provided in Capital Project HO-277 be rescinded to the extent of $7,146,469 by amending the 1968-1969 and 1973-1974 Capital Budgets as follows:

DEPARTMENT OF HOSPITALS

Line	Project	Title	Total Estimated Cost	1973-1974 Capital Budget
311	HO-277	Neighborhood Family Care Center at the Existing Morrisania Hospital, Bronx, New Construction and Alterations	$4,135,000 00	
		Delete		$204,550 00
		Substitute		$58,081 00

AMBULATORY CARE
Borough of The Bronx

Line	Project	Title	Total Estimated Cost	1968-1969 Capital Budget
484	HO-277 (MH-41A)	Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations	($10,469,550 00)	
		Hospital Facilities	7,204,550 00	
		Delete		7,000,000 00

Line	Project	Title	Total Estimated Cost	1968-1969 Capital Budget
		Substitute		.....
		Community Mental Health Facilities		
		City Share	2,177,000 00	
		Delete	.....	.....
		Substitute	.....	.....
		Community Mental Health Facilities		
		State Share	1,088,000 00S	
		Delete	.....	.....
		Substitute	.....	.....

The budget certificate for Capital Project HO-358 will include a requirement for submission of semi-annual reports to the Bureau of the Budget for all expenditures and programs.

Approval of this amendment to the 1973-1974 Capital Budget to add Project HO-358 is recommended.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

Referred to the Committee on Finance. Couple with M-1025.

M-1019

Communication From the Mayor—Approving Amendment to the 1973-1974 Capital Budget to Add Line 420, Project WM-102, Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York in the Amount of $27,550,000.

December 13, 1973.

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1973-1974 Capital Budget under the EPA-Deparment of Water Resources, as follows:

Line	Project	Title	1973-1974 Capital Budget
420	WM-102	Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York	$27,550,000 00

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours, JOHN V. LINDSAY, Mayor.

September 21, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—This request from the Assistant Administrator of the Environmental Protection Administration is for approval of an amendment to the Capital Budget to provide funds for a comprehensive program of renovation or improvement of the water supply system of the City of New York.

Under this program, the City's extensive water distribution system comprising many miles of mains and appurtenances is constantly improved and renovated to replace obsolete, broken or defective mains, valves, hydrants, etc. The program insures a dependable supply of high quality water in amounts and pressures to meet all the sanitary, residential, commercial and industrial needs of the City's population.

The amounts required for each of the two years, (1972-1973 and 1973-1974) are $10,000,000 for personal services, $2,775,000 for fringe benefits and $1,000,000 for other than personal services. At $13,775,000 per year, a total of $27,550,000 is needed. A new project in the 1973-1974 Capital Budget is recommended with an appropriation of $27,550,000 to finance the operations during the current fiscal year and to reimburse the source used by the Comptroller to pay the above costs during 1972-1973 as follows:

Line	Project	Title	1973-1974 Capital Budget
New Line	WM-102	Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York	$27,550,000 00

Chapter 889 of the Laws of 1973 by adding Subdivision 77, Paragraph "a", Section 11.00 of the Local Finance Law permits financing of a comprehensive program of renovation or improvement of the water supply distribution system in the City of New York by issuance of bonds thereby eliminating the need of financing the program under the Expense Budget. The Law was approved and became effective on June 22, 1973.

In view of the foregoing, approval is recommended of the proposed amendment to the 1973-1974 Capital Budget.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

Referred to the Committee on Finance. Coupled with M-1026.

M-1020

Communication From the Mayor—Approving Amendment of the 1973-1974 Capital Budget, to Increase Line 29, Project E-1749, Comprehensive Program of Renovation and Improvement of School Buildings and Playgrounds, All Boroughs, From $22,000,000 to $37,700,000.

Board of Estimate, Municipal Building, New York, N. Y. 10007:

Gentlemen—I hereby approve the proposed amendment to the 1973-1974 Capital Budget under the Board of Education, as follows:

Line	Project	Title	1973-1974 Capital Budget
29	E-1749	Comprehensive Program of Renovation and Improvement of School Buildings and Playgrounds, All Boroughs.	
		Eliminate	$22,000,000 00
		Substitute	37,700,000 00

Attached hereto are reports of the City Planning Commission and the Budget Directors Office, together with an abstract of the City Planning Commission to be printed on the Calendar.

Very truly yours, JOHN V. LINDSAY, Mayor.

October 10, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—On September 6, 1973, the Board of Education submitted for consideration an amendment to the 1973-1974 Capital Budget to provide an additional $15,700,000 in funds under Line 29, Project E-1749, a Comprehensive Program of Renovation and Improvement of School Buildings and Playgrounds, All Boroughs.

On May 24, 1972, the Governor signed into Law, Chapter 474, Laws of 1972, an amendment to Section 11.00 of the Local Finance Law (Subdivision 77), authorizing the use of five year serial bonds to finance a comprehensive program of renovation or improvement of a public or school building. During negotiations with the Board of Estimate and City Council last June on the 1973-1974 Expense Budget, it was agreed that all the Bureau of Maintenance costs would be included for such a comprehensive program, therefore an additional $15,700,000 previously financed from tax levy funds, would be transferred to the Capital Budget pursuant to this State legislation. This request for a budget amendment is in furtherance of that arrangement.

There are under the jurisdiction of the Central Board of Education, and the Community school boards about 1,000 school buildings, including high schools, administrative offices special education facilities, elementary, intermediate and junior high schools, and early childhood centers. The subject request relates to funding a comprehensive effort to extend the life of these buildings through a program of major renovations and improvements. It is intended that these periodic inspections and subsequent improvements will contribute to the betterment and extended life of school buildings by identifying needs in a timely and comprehensive manner. The comprehensive program does not include work performed routinely by the custodial staff.

The program stated above will require the entire resources of the Bureau of Maintenance. In the 1972-1973 Capital Budget, Project E-1749 was established to fund certain functions of the Bureau of Maintenance which were in the Expense Budget and which were formerly tax levy funded. The 1973-1974 Capital Budget provided $22,000,000 for this purpose. The 1973-1974 Expense Budget indicates that additional functions indicated under the Bureau of Maintenance are to be funded from the Capital Budget for a total sum of $37,700,000. Therefore, the Board of Education has requested that the 1973-1974 Capital Budget be amended to include $15,700,000 not now provided in the Capital Budget.

The funding of this program encompasses three principle areas:

Personal Services	$15,808,000 00
Other Than Personal Services	3,300,000 00
Renovation Contracts	18,592,000 00
	$37,700,000 00

In view of the foregoing, the following amendment to 1973-1974 Capital Budget will be refunded:

Line	Project	Title	Total Estimated Cost	1973-1974 Capital Budget
29	E-1749	Comprehensive Program of Renovation and Improvement of School Buildings and Playgrounds, All Boroughs.		
		Eliminate	Continuing	$22,000,000 00
		Substitute	Project	$37,700,000 00

In view of the fact that there are no Board of Education projects that can be deferred to provide compensating funds, the additional funds must be financed from the existing City reserves.

In view of the foregoing, approval of the amendment to the 1973-1974 Capital Budget to provide an additional $15,700,000 for Project E-1749 is recommended.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

Referred to the Committee on Finance. Coupled with M-1027

M-1021

Communication From the Mayor—Approving Amendment of the 1972-1973 Capital Budget, to Increase Line 495, Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc., From $7,045,000(d) to $25,005,622(d), and Line 498, Project S-132, Preparation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc., From $5,825,000(d) to $7,133,170(d).

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1972-1973 Capital Budget under the EPA-Department of Sanitation, as follows.

Line	Project	Title	1972-1973 Capital Budget
495	S-11	Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc.	
		Delete	$7,045,000 00(d)
		Substitue	25,005,622 00(d)
498	S-132	Preparation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc.	
		Delete	$5,825,000 00(d)
		Substitute	7,133,170 00(d)

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours, JOHN V. LINDSAY, Mayor.

June 15, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—In a communication dated May 29, 1973, the Assistant Administrator (Fiscal) for the Environmental Protection Administration requested Amendment to the 1972-1973 Capital Budget to provide the necessary funds to increase the permissible capital funding percentage for certain operations in the Department of Sanitation's Waste Disposal Landfill and Marine Programs presently funded out of the City's Expense Budget.

The Department of Sanitation of The City of New York presently operates several sanitary truckfills and a marine fed sanitary landfill. Of the more than eight million tons of refuse received by the Department of Sanitation last year, approximately 80 per cent, including incinerator residue, finds its way to one of the sanitary landfills, which annually creates additional useable acreage for public purposes. Portions of the marine fed landfill and the truckfills are on areas to be used for park and other recreational purposes and are planned and supervised in conjunction with the Department of Parks.

The Department of Sanitation operates its truckfills throughout the City and has three marine unloading facilities at the Fresh Kills sanitary landfill and marsh lands reclamation project in the Borough of Richmond. This latter project alone comprises the recla-

mation of about 2,600 acres of low lands in the west central portion of the borough, on the Arthur Kill.

The landfilling and reclamation operations comprise four common elements: unloading, hauling, filling and covering of waste material. Refuse going to Fresh Kills is transferred from trucks at Marine Transfer Stations to a fleet of barges towed by tugs to the Marine unloading plant where the Waste Material is unloaded onto wagons and pulled to the active bank of the fill. Upon dumping at the fill face via truck at the truckfills or wagons at the Fresh Kills facility, the waste material is pushed into place and brought to grade by bulldozer tractors. Earth cover is then spread by tractor hauled scrapers and bulldozers over all exposed waste material to effect a sanitary landfill operation.

In the past capital funds have been used only to finance the portion of landfill costs allocable to the creation of park lands. Local finance law periods of probable usefulness for refuse disposal areas and unspecified public betterments and improvements permit us to capitalize the entire cost of these operations.

The subject request is to fully capitalize the aforesaid activities, including marine operations, fill operations, barge unloading, marine transportation, construction waste unit, marine unloading, as well as the various mechanics associated with such operations, related vehicle maintenance, and personal service. In order to do so, the following amendment of the 1972-1973 Capital Budget is necessary:

DEPARTMENT OF SANITATION

Line 495, Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc.

Total Estimated Cost:	
Delete	$12,349,580 10
Substitute	30,310,202 00
1972-1973 Capital Budget	
Delete	7,045,000 00(d)
Substitute	25,005,622 00(d)

Line 498, Project S-132, Preparation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc.

Total Estimated Cost:	
Delete	11,017,510 30
Substitute	12,325,680 30
1972-1973 Capital Budget	
Delete	5,825,000 00(d)
Substitute	7,133,170 00(d)

In view of the fact that there are no Department of Sanitation projects that can be deferred to provide compensating funds, the requested increase in appropriations must be financed from the existing City reserves.

In consideration of the aforesaid and in order to permit 100 per cent capital funding of the landfill related operations, approval of the amendment to the 1972-1973 Capital Budget, as noted above, is recommended.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

Referred to the Committee on Finance. Coupled with M-1028

M-1022

Communication From the Mayor—Approving Amendment of the 1973-1974 Capital Budget, to Increase Line 422, Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc., From $5,000,000(d) to $23,767,687(d) and Line 425, Project S-132, Recreation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc., From $6,300,000(d) to $7,583,304(d).

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1973-1974 Capital Budget under the EPA-Department of Sanitation, as follows:

Line	Project	Title	1973-1974 Capital Budget
422	S-111	Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc.	
		Delete	$5,000,000 00(d)
		Substitute	23,767,687 00(d)
425	S-132	Preparation and Development of Park Land for Disposal of Waste Materials, Including Sites, Etc.	
		Delete	6,300,000 00(d)
		Substitute	7,583,304 00(d)

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours, JOHN V. LINDSAY, Mayor.

November 5, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the Council:*

Gentlemen—In a communication dated October 29, 1973, the Assistant Administrator (Fiscal) for the Environmental Protection Administration requested Amendment to the 1973-1974 Capital Budget to provide the necessary funds to increase the permissable capital funding percentage for certain operations in the Department of Sanitation's Waste Disposal Landfill and Marine Programs presently funded out of the City's Expense Budget. A similar request amending the 1972-1973 Budget is now pending.

The Department of Sanitation of The City of New York presently operates several sanitary truckfills and a marine fed sanitary landfill. Of the more than eight million tons of refuse received by the Department of Sanitation last year, approximately eighty per cent, including incinerator residue, finds its way to one of the sanitary landfills, which annually creates additional useable acreage for public purposes. Portions of the marine fed landfill and the truckfills are on areas to be used for park and other recreational purposes and are planned and supervised in conjunction with the Department of Parks.

The Department of Sanitation operates its truckfills throughout the City and has three marine unloading facilities at the Fresh Kills sanitary landfill and marsh lands reclamation project in the Borough of Richmond. This latter project alone comprises the reclamation of about 2,600 acres of low lands in the west central portion of the borough, on the Arthur Kill.

The landfilling and reclamation operations comprise four common elements: unloading, hauling, filling and covering of waste material. Refuse going to Fresh Kills is transferred from trucks at Marine Transfer Stations to a fleet of barges towed by tugs to the Marine unloading plant where the Waste Material is unloaded onto wagons and pulled to the active bank of the fill. Upon dumping at the fill face via truck at the truckfills or wagons at the Fresh Kills facility, the waste material is pushed into place and brought to grade by bulldozer tractors. Earth cover is then spread by tractor hauled scrapers and bulldozers over all exposed waste material to effect a sanitary landfill operation.

In the past capital funds have been used only to finance the portion of landfill costs allocable to the creation of park lands. Local finance law periods of probable usefulness for refuse disposal areas and unspecified public betterments and improvements permit us to capitalize the entire cost of these operations.

The subject request is to fully capitalize the aforesaid activities, including marine operations, fill operations, barge unloading, marine transportation, construction waste unit, marine unloading, as well as the various mechanics associated with such operations, related vehicle maintenance, and personal service. In order to do so, the following amendment of the 1973-1974 Capital Budget is necessary:

DEPARTMENT OF SANITATION

Line 422 Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc.

Total Estimated Cost:	
Delete	$10,362,842 00
Substitute	29,130,529 00
1973-1974 Capital Budget	
Delete	5,000,000 00(d)
Substitute	23,767,687 00(d)

Line 425, Project S-132, Preparation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc.

Total Estimated Cost:	
Delete	12,553,943 00
Substitute	13,837,247 00
1973-1974 Capital Budget	
Delete	6,300,000 00(d)
Substitute	7,583,304 00(d)

In view of the fact that there are no Department of Sanitation projects that can be deferred to provide compensating funds, the requested increase in appropriations must be financed from the existing City reserves.

In consideration of the aforesaid and in order to permit 100 per cent capital funding of the landfill related operations, approval of the amendment to the 1973-1974 Capital Budget, as noted above is recommended.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

Referred to the Committee on Finance. Coupled with M-1029.

M-1023

Communication From the Mayor—Approving Amendment of the 1973-1974 Capital Budget, to Increase the Individual Borough Lines of Project P-245, Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, by an Aggregate Amount of $4,100,000 as follows:

Bronx—Line 668, Project P-245X, from $2,300,000(d) to $3,230,000(d)
Brooklyn—Line 686, Project P-245K, from $2,750,000(d) to $3,795,000(d)
Manhattan—Line 702, Project P-245M, from $2,300,000(d) to $3,240,000(d)
Queens—Line 718, Project P-245Q, from $3,050,000(d) to $3,975,000(d)
Richmond—Line 730, Project P-245R, from $1,050,000(d) to $1,310,000(d).

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—

I hereby approve proposed amendment to the 1973-1974 Capital Budget under the Parks, Recreational and Cultural Affairs, as follows:

Miscellaneous Parks, Parkways Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction Reconstruction and Repaving, Including a Comprehensive Program of Renovations, This project shall not be effective or be deemed include, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.

Line 668, Project P-245X, from $2,300,000(d) to $3,230,000(d).
Line 686, Project P-245K, from $2,750,000(d) to $3,795,000(d).
Line 702, Project P-245M, from $2,300,000(d) to $3,240,000(d).
Line 718, Project P-245Q, from $3,050,000(d) to $3,975,000(d).
Line 730, Project P-245R, from $1,050,000(d) to $1,310,000(d).

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours, JOHN V. LINDSAY, Mayor.

November 16, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—On November 2, 1973, the Assistant Administrator for Design of the Parks, Recreation and Cultural Affairs Administration requested approval of amendments to 5 lump sum projects of the 1973-1974 Capital Budget by providing an additional aggregate amount of $4.1 million to Capital Project P-245 (X, K, M, Q and R)—Miscellaneous Parks, Parkways, Playgrounds, Museum and Institutional Facilities, Structures and Related Mechanical Equipment, etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations. Funds appropriated for the aforesaid project provide for construction contracts as well as the salaries of various mechanical trades personnel of the Department of Parks to implement a program of general rehabilitation for all park facilities throughout the City. This major rehabilitation program has been divided into 5 separate borough projects P-245X, P-245K, P-245M, P-245Q and P-245R to clearly delineate the annual appropriations within each of said boroughs.

The requested Capital Budget amendments, in relation to the amounts appropriated in the 1973-1974 Capital Budget are summarized as follows:

Project	Borough	1973-1974 Capital Budget	Additional Requested Funds by Amendment
P-245X	The Bronx	$2,300,000(d)	$930,000 00
P-245K	Brooklyn	2,750,000(d)	1,045,000 00
P-245M	Manhattan	2,300,000(d)	940,000 00
P-245Q	Queens	3,050,000(d)	925,000 00
P-245R	Richmond	1,050,000(d)	260,000 00
	Total City Wide	$11,450,000(d)	$4,100,000 00

Heretofore, on May 24, 1972, the New York State Legislature passed a bill signed by the Governor amending Section 11.00 of the Local Finance Law (Subdivision 77), authorizing the use of five year serial bonds to finance a comprehensive program of renovations of playgrounds or public parks in The City of New York. Consequently an aggregate amount of 5 million dollars was provided within the five borough projects to advance such a comprehensive program. The amounts provided were to be used exclusively for the salaries of Park Department mechanics and their assistants in the implementation of the renovation program.

The salaries of personnel to be chargeable to the various borough projects under Capital Project P-245 for this program include various mechanical trades personnel such as carpenters, electricans, steamfitters, painters, machinists, etc. as well as laborers, who assist such mechanical trades personnel. The work to be accomplished under this program comprises the rehabilitation of comfort stations, swimming pools and recreation centers as well as the fabrication of park benches, fences, play equipment, etc. in the Borough Repair Shops of the Department.

It was originally believed that the $5 million appropriated for personal services in the comprehensive renovation program would be sufficient to cover the salary costs. However, experience gained by the Department indicates that an aggregate amount of $9.1 million for personal salaries, including fringe benefits, in lieu of the $5 million amount, is actually required for the implementation of the comprehensive renovation program. Charging such salaries to the capital budget will enable the Department of Parks to maximize the tax levy funds appropriated to maintain and operate their various facilities spread over 39,000 acres of park land.

The proposed amendments can be implemented by modifying the 1973-1974 Capital Budget for Projects P-245X, P-245K, P-245M, P-245Q and P-245R as follows:

1973-1974 CAPITAL BUDGET

Line	Project	Title	Total Estimated Cost	1973-1974 Capital Budget
668	P-245X	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, The Bronx. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	$3,124,663 00	$2,300,000 00(d)
		Substitute	4,054,663 00	3,230,000 00(d)
686	P-245K	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Brooklyn. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	2,993,318 00	2,750,000 00(d)
		Substitute	4,038,318 00	3,795,000 00(d)
702	P-245M	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical		

Line	Project	Title	Total Estimated Cost	1973-1974 Capital Budget
		Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Manhattan. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	2,703,288 00	2,300,000 00(d)
		Substitute	3,643,288 00	3,240,000 00(d)
718	P-245Q	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Queens. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	3,296,811 00	3,050,000 00(d)
		Substitute	4,221,811 00	3,975,000 00(d)
730	P-245R	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Richmond. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	1,611,467 00	1,050,000 00(d)
		Substitute	1,871,467 00	1,310,000 00(d)

In view of the fact that there are no Department of Parks projects that can be deferred to provide compensating funds the additional funds required must be financed from existing City reserves.

In view of the foregoing, approval of amendments to the 1973-1974 Capital Budget in the aggregate amount of $4.1 million for projects P-245X, P-245K, P-245M, P-245Q and P-245R is therefore recommended; as heretofore indicated.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

Referred to the Committee on Finance. Coupled with M-1030.

Exhibit U

M-1024

Communication From the Mayor—Approving Amendment of the 1973-1974 Capital Budget, to Add a New Line 29a, Project E-1795, Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City, for (b) funding.

City Council, City Hall New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1973-1974 Capital Budget under the Board of Education, as follows:

Line	Project	Title
29a	E-1795	Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City (b)

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours,

JOHN V. LINDSAY, Mayor.

December 10, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—In a communication, dated September 5, 1973, the Commissioner of the Department of Real Estate requested approval of an amendment to the 1973-1974 Capital Budget to provide for the acquisition of premises; 28-11 Bridge Plaza North, Queens, also known as Lot 2 in Block 417, as follows:

Line	Project	Title	Add
29a	E-1795	Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City	(b)

The building at 28-11 Bridge Plaza North is a privately owned, steel, masonry and concrete building, located in Long Island City on Bridge Plaza North between 28th and 29th Streets. The subject building is built on an irregular plot of 25,600 square feet, and comprises 3 sections—a 3 story building erected in 1911—a 6 story addition on top of the 3 story portion erected in 1927—and a 7 story annex erected in 1954. The building also contains a basement and an indoor parking area for 21 automobiles. The total floor area of 175,000 square feet is distributed among three tenants as follows: the Board of Education—118,000 square feet, the Department of Traffic—47,000 square feet and the First National City Bank—10,000 square feet.

In anticipation of the expiration of the current leases with Education and Traffic, in June, 1974, the Department of Real Estate and the landlord, Grand Central Buildings Inc., 200 Park Avenue have entered into negotiations for extension of the leases. As a result of these negotiations it appears that the new annual rental will total $955,000 as compared to the present level of $534,253.

The Commissioner of the Department of Real Estate having made a financial analysis based on acquisition costs versus the new rental cost, has indicated an annual cost savings of $83,000 through ownership of the property. Economic analysis performed by this office is supportative of the proposed acquisition as being economically most feasible.

In light of the above it is felt that the best interests of the City would be served if the building were acquired in lieu of leasing. As a result of the sound condition of the building no renovation work is contemplated in the foreseeable future thus assuring continuation of its present use i.e. housing the Office of School Buildings of the Board of Education and the Department of Traffic offices and facilities. The latter agency will continue in operation at this location with the agreement of the Board of Education and share in the operating expenses.

The project is being listed with a (b) designation which provides Capital Project E-640 "For the Acquisition of Sites as Required for any School Projects Listed in the Capital Budget, etc." No additional funds will be required since there are sufficient funds available under Project E-640 to provide for the acquisition of these premises.

1973-1974 CAPITAL BUDGET

Line	Project	Title	1973-1974 Capital Budget
29a	E-1795	Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City	(b)

In view of the foregoing, approval of the amendment to the 1973-1974 Capital Budget, as noted above, is recommended.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.
Referred to the Committee on Finance. Coupled with M-1031.

COMMUNICATIONS FROM CITY, COUNTY AND BOROUGH OFFICES

M-1025

Communication From City Planning Commission—Transmitting Amendment of the 1973-1974 and 1968-1969 Capital Budget, as follows:

1973-1974 Capital Budget

Add New Line 471B, Project HO-358, A Comprehensive Program of Renovation and Improvement of Hospital Buildings and Grounds, All Boroughs, in the Amount of $9,335,000; Decrease Line 484, Project HO-277 (MH-41A), Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations, from $7,000,000 (Allocated to Hospital Facilities) to 0.

1968-1969 Capital Budget

Decrease Line 311, Project HO-277, Neighborhood Family Care Center at the Existing Morrisania Hospital, Bronx, New Construction and Alterations, From $204,550 to $58,081.

Hon. THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commission at its Public Meeting of Wednesday, December 12, 1973, pursuant to Sections 216-225 of the New York City Charter:

(CB-73-28)

Five affirmative votes.
Very truly yours, GAIL BUXBAUM, Secretary.

CITY PLANNING COMMISSION

(CB-73-28)

Cal. No. 20 December 12, 1973.

Amendment of the 1973-1974 *and* 1968-1969 *Capital Budgets, requested by the Health Services Administration on November* 13, 1973 *as follows:*

1973-1974 *Capital Budget*

Add New Line 471*b, Project HO-*358, *A Comprehensive Program of Renovation and Improvement of Hospital Buildings and Grounds, All Boroughs, in the amount of* $9,335,000; *Decrease Line* 484 *Project HO-*277 (*MH-*41*A*), *Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations, from* $7,000,000 (*Allocated to Hospital Facilities*) *to* 0.

1968-1969 *Capital Budget*

Decrease Line 311, *Project HO-*277, *Neighborhood Family Care Center at the Existing Morrisania Hospital, Bronx, New Construction and Alterations, from* $204,550 *to* $58,081.

This new project being added to the 1973-1974 Capital Budget will provide Capital funding for a comprehensive renovations and improvements program for hospitals and related buildings designed to maintain or extend their useful lines.

A portion of these costs was previously charged to the Expense Budget. The amount requested in this amendment reflects that portion and transfers all funding for this program to the Capital Budget. This transfer of funds is pursuant to recent State Legislation which amended Section 11.00 of the Local Finance Law (Subdivision 77) authorizing the use of five year serial bonds to finance this type of expenditure.

The funding breakdown is as follows:

Renovation and Improvement Contracts	$3,000,000 00
Personal Services	$6,335,000 00
	$9,335,000 00

Part of this cost will be defrayed by deleting previous authorizations amounting to $7,146,469 from the 1973-1974 and 1968-1969 Capital Budgets for Project HO-277, Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations. This project is being constructed by the New York State Facilities Development Corporation. The original estimate for its completion was October 1973. However, since this project has been amended to include a mental health component, the completion date has been revised to April 1975, and the funds previously provided will not be required in the 1973-1974 Capital Budget. The balance of the funds required for Project HO-358 ($2,188,531) will be taken from the City's Capital Budget reserve.

Exhibit U

On November 28, 1973, Cal. No. 57, the City Planning Commission scheduled December 12, 1973 as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 20. There were no appearances. The hearing was

The Commission approved the amendment and adopted the following recommendations:

That the Capital Budget for 1973-1974, under the Health Services Administration—General, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	47 lb
2	Project	HO-358
3	Title	A Comprehensive Program of Renovations and Improvement of Hospital Buildings and Grounds, All Boroughs.
4	Total Estimated Cost	$9,335,000 00
5	Total Authorizations as of April 1, 1971	* *
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	0
7	**1973-1974 Capital Budget**	**9,355,000 00**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5 (77) 2,860,000 0

That the Capital Budget for 1973-1974, under the Health Services Administration—Ambulatory Care—Borough of The Bronx, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	484
2	Project	HO-277 (MH-41A)
3	Title	Neighborhood Family Care Center at Existing Morrisania Hospital, New Construction and Alterations
		1729 Hospital Facilities
		1779 Community Mental Health Facilities—City Share Community Mental Health Facilities—State Share
4	Total Estimated Cost	($10,469,550 00) 1729— 7,204,550 00 2,177,000 00 1779— 1,088,000 00S
5	Total Authorizations as of April 1, 1973	(b) (SC) 1729—204,550 00 0 1779— 0
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	1729—146,469 00 0 1779— 0
7	**1973-1974 Capital Budget**	1729— 0 0 1779— 0

Column Number	Column Heading	Column Entry
8	Required to Complete	1729— 7,000,000 00 2,177,000 00 1779— 1,088,000 00S
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	30 (11a) ¶ 2,693,300

That the Capital Budget for 1968-1969, under the Health Services Administration—Department of Hospitals, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	311
2	Project	HO-277 1729
3	Title	Neighborhood Family Care Center at the Existing Morrisania Hospital, Bronx, New Construction and Alterations.
4	Total Estimated Cost	$4,135,000 00
5	Total Authorizations as of April 5, 1968	0
6	Available Sums from Mayor's Prior Certifications as of December 31, 1967	0
7	**1968-1969 Capital Budget**	**58,081 00**
8	Required to Complete	4,076,919 00
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	30 (11a) 5,570 00 300,000 00

Footnotes:

(b)—Site Acquisition Funds, if necessary, to be provided from appropriate lump sum projects.

* * Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

—Additional annual debt service has been included under Column 9 under appropriate lump sum projects.

CP—Continuing Project.

S —State Funds.

Column 9—The figures shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of year.

SC—Project to be constructed by the New York State Health and Mental Hygiene Facilities Improvement Corporation.

JOHN E. ZUCCOTTI, Chairman; MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

Referred to the Committee on Finance, Coupled with M-1018.

M-1026

Communication From City Planning Commission—Transmitting Amendment to the 1973-1974 Capital Budget to Add Line 420, Project WM-102, Comprehensive Program of Renovation and Improvement of the Water Supply System in The City of New York, in the Amount of $27,550,000.

December 13, 1973.

Hon. THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commission at its Public Meeting of Wednesday, December 12, 1973 pursuant to Sections 16-225 of the New York City Charter:

(CB-73-20)

Five affirmative votes.

Very truly yours,

GAIL BUXBAUM, Secretary.

Exhibit U

CITY PLANNING COMMISSION

December 12, 1973.

(CB-73-20)

Cal. No. 17

Amendment of the 1973-1974 *Capital Budget, requested by the Environmental Protection Administration to add Line* 420, *Project WM-102, Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York, in the amount of* $27,550,000.

The purpose of this amendment is to provide Capital Funds for a Comprehensive Program of Renovation or Improvement of the Water Supply System of the City of New York. Under this program, the City's extensive water distribution system comprising many miles of mains and appurtenances is constantly improved and renovated to replace obsolete, broken or defective mains, valves, hydrants, etc. The program insures a dependable supply of high quality water in amounts and pressures to meet all the sanitary, residential, commercial and industrial needs of the City's population.

The amount being requested covers the fiscal years 1972-1973 and 1973-1974. The breakdown for each year is as follows:

Personal Services	$10,000,000 00
Fringe Benefits	2,775,000 00
Other Than Personal Services	1,000,000 00
	$13,775,000 00

These costs were previously charged to the City's Expense Budget. An amendment to Section 11.00 of the Local Finance Law now permits financing of a comprehensive program of renovation or improvements of the water supply distribution in the City of New York by issuance of bonds, thereby eliminating the need of financing the program with Expense Funds. This change became effective June 22, 1973.

On November 28, 1973, Cal. No. 54, the City Planning Commission scheduled December 12, 1973 as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 17. There were no appearances. The hearing was closed.

The Commission approved the amendment and adopted the following recommendations:

That the Capital Budget for 1973-1974, under the Environmental Protection Administration—Department of Water Resources—Water Mains, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	420
2	Project	WM-W2
3	Title	Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York.
4	Total Estimated Cost	$27,550,000 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	0
7	**1973-1974 Capital Budget**	**$27,550,000 00**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5 (77) 10,350,000 0

Footnotes:

**—Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

CP—Continuing Project.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

JOHN E. ZUCCOTTI, Chairman; MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners; Commissioner GERALD R. COLEMAN voted in opposition.

December 12, 1973.

CITY PLANNING COMMISSION
(CB-73-20)

Cal. No. 17

Amendment of the 1973-1974 *Capital Budget, requested by the Environmental Protection Administration to add Line* 420, *Project WM-102, Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York, in the amount of* $27,550,000.

The purpose of this amendment is to provide Capital Funds for a Comprehensive Program of Renovation or Improvement of the Water Supply System of the City of New York. Under this program, the City's extensive water distribution system comprising many miles of mains and appurtenances is constantly improved and renovated to replace obsolete, broken or defective mains, valves, hydrants, etc. The program insures a dependable supply of high quality water in amounts and pressures to meet all the sanitary, residential, commercial and industry needs of the City's population.

The amount being requested covers the fiscal years 1972-1973 and 1973-1974. The breakdown for each year is as follows:

Personal Services	$10,000,000 00
Fringe Benefits	2,775,000 00
Other Than Personal Services	1,000,000 00
	$13,775,000 00

These costs were previously charged to the City's Expense Budget. An amendment to Section 11.00 of the Local Finance Law now permits financing of a comprehensive program of renovation or improvements of the water supply distribution in the City of New York by issuance of bonds, thereby eliminating the need of financing the program with Expense Funds. This change became effective June 22, 1973.

On November 28, 1973, Cal. No. 54, the City Planning Commission scheduled December 12, 1973 at the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 17. There were no appearances. The hearing was closed.

The Commission approved the amendment and adopted the following recommendations:

That the Capital Budget for 1973-1974, under the Environmental Protection Administration—Department of Water Resources—Water Mains, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	420
2	Project	WM-W2
3	Title	Comprehensive Program of Renovation and Improvement of the Water Supply System in the City of New York.
4	Total Estimated Cost	$27,550,000 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	0
7	**1973-1974 Capital Budget**	**$27,550,000.00**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5 (77) 10,350,000 0

Footnotes:

**—Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

CP—Continuing Project.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

JOHN E. ZUCCOTTI, Chairman; MARTIN GALLENT, Vice-Chairman; Gordon

J. Davis, Sylvia Deutsch, Chester Rapkin, Commissioners; Commissioner Gerald R. Coleman voted in opposition.

Referred to the Committee on Finance. Coupled with M-1019.

M-1027

Communication From City Planning Commission—Transmitting Amendments of the 1973-1974 Capital Budget, to Increase Line 29, Project E-1749, Compehensive Program of Renovation and Improvement of School Buildings and Playgrounds, All Boroughs, From $22,000,000 to $37,700,000.

December 13, 1973.

Hon. THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commission at its Public Meeting of Wednesday, December 12, 1973, pursuant to Sections 216-225 of the New York City Charter:

(CB-73-23)

Five affirmative votes.
Very truly yours,

GAIL BUXBAUM, Secretary.

CITY PLANNING COMMISSION

(CB-73-23)

Cal. No. 18 December 12, 1973.

Amendment of the 1973-1974 Capital Budget, requested by the Board of Education on September 6, 1973 to increase Line 29, Project E-1749, "Comprehensive Program of Renovation and Improvement of School Buildings and Playgrounds, All Boroughs," from $22,000,000 *to* $37,700,000.

There are under the jurisdiction of the Central Board of Education, and the Community school boards about 1,000 school buildings, including high schools, administrative offices, special education facilities, elementary, intermediate and junior high schools, and early childhood centers. The subject request relates to funding a comprehensive effort to extend the life of these buildings through a program of major renovations and improvements. It is intended that these periodic inspections and subsequent improvements will contribute to the betterment and extended life of school buildings by identifying needs in a timely and comprehensive manner. The comprehensive program does not include work performed routinely by the custodial staff.

This amendment will transfer $15,700,000 of public school Maintenance and Renovation funds previously carried in the Expense Budget to the Capital Budget. This transfer is pursuant to recent State Legislation which amended Section 11.00 of the Local Finance Law (Subdivision 77), authorizing the use of five year serial bonds to finance a comprehensive program of renovation or improvement of a public or school building. Previous budget amounts for this project reflected only certain functions of the Bureau of Maintenance.

Additional funding now being authorized would place all Bureau of Maintenance costs involved with the renovation and improvement program under this project.

The funding of this program encompasses three principle areas:

Personal Services	$15,808,000 00
Other Than Personal Services	3,300,000 00
Renovation Contracts	18,592,000 00
	$37,700,000 00

On November 28, 1973, Cal. No. 55, the City Planning Commission Scheduled December 12, 1973 as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 18. There were no appearances. The hearing was closed.

The Commission approved the amendment and adopted the following recommendations:

That the Capital Budget for 1973-1974, under the Board of Education, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	29
2	Project	E-1749 4538
3	Title	Comprehensive Program of Renova-

Column Number	Column Heading	Column Entry
		tion and Improvement of School Buildings and Playgrounds, All Boroughs.
4	**Total Estimated Cost**	$37,700,000 00
5	Total Authorizations as of April 1, 1973	* *
6	**Available Sums from Mayor's Prior Certifications as of** December 15, 1972	0
7	**1973-1974 Capital Budget**	**37,700,000 00**
8	**Required to Complete**	CP
9	**Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation**	{5 (77) {5,190,000 00 —

Footnotes:

* *—Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

CP—Continuing Project.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

JOHN E. ZUCCOTTI, Chairman; MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners; Commissioner GERALD R. COLEMAN voted in opposition.

Referred to the Committee on Finance. Coupled with M-1020.

M-1028

Communication From City Planning Commission--Transmitting Amendment of the 1972-1973 Capital Budget, to Increase Line 495, Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc., From $7,045,000(d) to $25,005,622(d), and Line 498, Project S-132, Preparation and Development of Parks Lands for Disposal of Waste Materials, Including Sites, Etc., From $5,825,000(d) to $7,133,170(d).

December 13, 1973.

Hon. THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commission at its Public Meeting of Wednesday, December 12, 1973 pursuant to Sections 216-225 of the New York City Charter:

(CP-73-7)

Five affirmative votes.

Very truly yours,

GAIL BUXBAUM, Secretary.

CITY PLANNING COMMISSION

Cal. No. 16 December 12, 1973

Amendment of the 1972-1973 *Capital Budget, requested by the Environmental Protection Administration—Department of Sanitation on May 29,* 1973 *to increase Line* 495, *Project S-*111, *Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc., from* $7,045,000(*d*) *to* $25,005,622(*d*), *and Line* 498, *Project S-*132, *Preparation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc., from* $5,825,000(*d*) *to* $7,133,170(*d*).

The New York City Department of Sanitation presently operates several sanitary truckfills and a marine-fed sanitary landfill. Of the more than eight million tons of refuse handled by the Department last year, approximately 80 per cent, including incinerator residue, found its way into one of these fills. These landfills create additional useable acreage for public purposes. Portions of these fills will be utilized for park and other recreational facilities, and are planned and supervised in conjunction with the Department of Parks. The truck fills are operated throughout the City while the marine-fed landfill consisting of three marine unloading facilities, is located at the Fresh Kills Sanitary Landfill and marsh lands reclamation project in the Borough of Richmond. This latter project alone comprises the reclamation of about 2,600 acres of low lands in the west central portion of the borough on the Arthur Kill.

The purpose of this amendment is to increase the Capital Budget by the amount previously allocated to the Expense Budget. In the past capital funds have been used only to finance the portion of landfill costs all allocable to the creation of park lands. Amendment to the Local Finance Law for refuse disposal areas and unspecified public betterments and improvements now permit us to capitalize the entire cost of these operations. The subject request is to fully capitalize the aforesaid activities, including marine operations, fill operations, barge unloading, marine transportation, construction waste unit, marine unloading, as well as the various mechanics associated with such operations, related vehicle maintenance, and personal service.

A similar request amending the 1973-1974 Capital Budget is now pending.

On November 28, 1973 Cal. No. 53, the City Planning Commission scheduled December 12, 1973 as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 16. There were no appearances. The hearing was closed.

The Commission approved the amendment and adopted the following recommendations.

That the Capital Budget for 1972-1973, under the Environmental Protection Administration—Department of Sanitation, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	495
2	Project	S-111 8627
3	Title	Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc.
4	**Total Estimated Cost**	
5	Total Authorizations as of April 1, 1973	**
6	**Available Sums from Mayor's Prior Certifications as of December 31, 1971**	5,304,580 10r
7	**1972-1973 Capital Budget**	**25,005,622 00(d)**
8	**Required to Complete**	CP
9	**Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation**	5 (77) 5,950,000 00 0

That the Capital Budget for 1972-1973, under the Environmental Protection Administration—Department of Sanitation, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	498
2	Project	S-132 7101
3	Title	Preparation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc.
4	**Total Estimated Cost**	$12,325,680 30
5	Total Authorizations as of April 1, 1972	**
6	**Available Sums from Mayor's Prior Certifications as of December 31, 1971**	5,192,510 30
7	**1972-1973 Capital Budget**	**7,133,170 00(d)**
8	**Required to Complete**	CP
9	**Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation**	5(77) 1,695,000 0

Footnotes:

**—Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

CP—Continuing Project.

(d)—Funds for design and/or related professional services such as scope preparation, construction supervision, surveying, etc., if necessary, to be provided from appropriate lump sum projects.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

(r)—These amounts or portions thereof are to be rescinded in accordance with the Mayor's Executive Capital Budget and the Board of Estimate and City Council's changes to the Mayor's budget.

JOHN E. ZUCCOTT, Chairman; MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners; Commissioner GERALD R. COLEMAN voted in opposition.

Referred to the Committee on Finance. Couple with M-1021

M-1029

Communication From City Planning Commission—Transmitting Amendment of the 1973-1974 Capital Budget, to Increase Line 422, Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc., From $5,000,000(d) to $23,767,687(d) and Line 425, Project S-132, Recreation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc., From $6,300,000(d) to $7,583,304(d).

December 13, 1973.

Hon. THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commission at its Public Meeting of Wednesday, December 12, 1973, pursuant to Sections 216-225 of the New York City Charter:

(CB-73-27)

Five affirmative votes.

Very truly yours, GAIL BUXBAUM, Secretary.

CITY PLANNING COMMISSION

(CB-73-27)

Cal. No. 19 December 12, 1973.

Amendment of the 1973-1974 Capital Budget, requested by the Environmental Administration—Department of Sanitation on October 29, 1973 to increase Line 422, Project S-111, Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc., from $5,000,000(d) to $23,767,687(d) and Line 425, Project S-132, Recreation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc., from $6,300,000(d) to $7,583,304(d).

The New York City Department of Sanitation presently operates several sanitary truckfills and a marine-fed sanitary landfill. Of the more than eight million tons of refuse handled by the Department last year, approximately 80 per cent including incinerator residue, found its way into one of these fills. These landfills create additional useable acreage for public purposes. Portions of these fills will be utilized for park and other recreational facilities, and are planned and supervised in conjunction with the Department of Parks. The truck fills are operated throughout the City while the marine-fed landfill consisting of three marine unloading facilities, is located at the Fresh Kills Sanitary Landfill and marsh lands reclamation project in the Borough of Richmond. This latter project alone comprises the reclamation of about 2,600 acres of low lands in the west central portion of the borough on the Arthur Kill.

The purpose of this amendment is to increase the Capital Budget by the amount previously allocated to the Expense Budget. In the past capital funds have been used only to finance the portion of landfill costs allocable to the creation of park lands. Amendment to the Local Finance Law for refuse disposal areas and unspecified public betterments and improvements now permit us to capitalize the entire cost of these operations. The subject request is to fully capitalize the aforesaid activities, including marine operations, fill operations, barge unloading, marine transportation, construction waste unit, marine unloading, as well as the various mechanics associated with such operations, related vehicle maintenance, and personal service.

A similar request amending the 1972-1973 Capital Budget is now pending.

On November 28, 1973, Cal. No. 56, the City Planning Commission scheduled December 12, 1973 as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 19. There were no appearances. The hearing was closed.

The Commission approved the amendment and adopted the following recommendations:

Exhibit U

That the Capital Budget for 1973-1974, under the Environmental Protection Administration—Department of Sanitation, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	422
2	Project	S-111 8627
3	Title	Marine Unloading Plants and Truck Fills, Fresh Kills, Staten Island, Etc.
4	Total Estimated Cost	$29,130,529 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	5,362,842 00
7	**1973-1974 Capital Budget**	**23,767,687 00(d)**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5(77) 5,700,000 0

That the Capital Budget for 1973-1974, under the Environmental Protection Administration—Department of Sanitation, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	425
2	Project	S-132 7101
3	Title	Recreation and Development of Park Lands for Disposal of Waste Materials, Including Sites, Etc.
4	Total Estimated Cost	$13,837,247 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	6,253,943 00
7	**1973-1974 Capital Budget**	**7,583,304 00(d)**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5(77) 1,820,000 0

Footnotes:

**—Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

CP—Continuing Project.

(d)—Funds for design and/or related professional services such as scope preparation, construction supervision, surveying, etc., if necessary, to be provided from appropriate lump sum projects.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

JOHN E. ZUCCOTT, Chairman; MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners; Commissioner GERALD R. COLEMAN voted in opposition.

Referred to the Committee on Finance. Couple with M-1022.

Exhibit U

M-1030

Communication From City Planning Commission—Transmitting Amendment of the 1973-1974 Capital Budget, to Increase the Individual Borough Lines of Project P-245, Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, by an Aggregate Amount of $4,100,000 as follows:

Bronx—Line 668, Project P-245X, from $2,300,000(d) to $3,230,000(d).
Brooklyn—Line 686, Project P-245K, from $2,750,000(d) to $3,795,000(d).
Manhattan—Line 702, Project P-245M, from $2,300,000(d) to $3,240,000(d).
Queens—Line 718, Project P-245Q, from $3,050,000(d) to $3,975,000(d).
Richmond—Line 730, Project P-245R, from $1,050,000(d) to $1,310,000(d).

December 13, 1973.

Hon. THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commission at its Public Meeting of Wednesday, December 12, 1973, pursuant to Sections 216-225 of the New York City Charter:

(CB-73-29)

Five affirmative votes.

Very truly yours,

GAIL BUXBAUM, Secretary.

CITY PLANNING COMMISSION

Cal. No. 21 December 12, 1973.

(CB-73-29)

Amendment of the 1973-1974 Capital Budget, requested by the Parks, Recreation and Cultural Affairs Administration on November 2, 1973 to increase the individual borough lines of Project P-245, Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, and Repaving, Including a Comprehensive Program of Renovations, by an aggregate amount of $4,100,000 as follows

Bronx—Line 668, Project P-245X, from $2,300,000(d) to $3,230,000(d).
Brooklyn—Line 686, Project P-245K, from $2,750,000(d) to $3,795,000(d).
Manhattan—Line 702, Project P-245M, from $2,300,000(d) to $3,240,000(d).
Queens—Line 718, Project P-245Q, from $3,050,000(d) to $3,975,000(d).
Richmond—Line 730, Project P-245R, from $1,050,000(d) to $1,310,000(d).

The funds provided under the borough lines of this project provide for construction contracts as well as salaries of various Department of Parks mechanical trades personnel needed to implement a program of general rehabilitation for all park facilities throughout the City. Included among the mechanical trades personnel are carpenters, electricians, steamfitters, painters, machinists, laborers, etc. The type of work covered in this program includes the rehabilitation of comfort stations, swimming pools and recreation centers, as well as the fabrication of park benches, fences, play equipment, etc., in the Borough Repair Shops.

Pursuant to recent State Legislation which amended Section 11.00 of the Local Finance Law (Subdivision 77), authorizing the use of five year serial bonds to finance a comprehensive program of renovations of playgrounds or public parks in the City of New York, an aggregate amount of $5 million was provided in the 1973-1974 Capital Budget. This amount, out of a total appropriation of $11.45 million for the five borough lines, was to be used exclusively for the salaries of Park Department mechanics and their assistants in the implementation of the renovation program. However, experience gained by the Department indicates that an aggregate amount of $9.1 million is required for salaries, including fringe benefits, for the implementation of this program. This amendment of an additional $4.1 million provides the necessary funds.

On November 28, 1973, Cal. No. 58, the City Planning Commission scheduled December 12, 1973 as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 21.

The Commission approved the amendment and adopted the following recommendations:

That the Capital Budget for 1973-1974, under the Parks, Recreation and Cultural Affairs Administration—Department of Parks—Borough of The Bronx, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	668

Column Number	Column Heading	Column Entry
2	Project	P-245X 7029
3	Title	Miscellaneous Parks, Parkways, Playgrounds, Museums, and Institutional Facilities, Structures, and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, The Bronx. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.
4	Total Fstimated Cost	$4,054,663 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	824,663 00
7	**1973-1974 Capital Budget**	**3,230,000 00(d)**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	{5(35, 77) 10(19) 768,000 0

That the Capital Budget for 1973-1974, under the Parks, Recreation and Cultural Affairs Administration—Department of Parks—Borough of Brooklyn, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	686
2	Project	P-245K
3	Title	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction

Column No.	Column Heading	Column Entry
		and Repaving, Including a Comprehensive Program of Renovations, Brooklyn. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.
4	Total Estimated Cost	$4,044,318 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	249,318 00
7	**1973-1974 Capital Budget**	**3,795,000 00(d)**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5(35,77) 10(19) 903,000 0

That the Capital Budget for 1973-1974, under the Parks, Recreational and Cultural Affairs Administration—Department of Parks—Borough of Manhattan, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	702
2	Project	P-245M 7031
3	Title	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Manhattan. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the

Column Number	Column Heading	Column Entry
		itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.
4	Total Estimated Cost	$3,643,288 00 **
5	Total Authorizations as of April 1, 1973	
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	403,288 00
7	**1973-1974 Capital Budget**	**3,240,000 00(d)**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5(35, 77) 10(19) 770,000 0

That the Capital Budget for 1973-1974, under the Parks, Recreation and Cultural Affairs Administration—Department of Parks—Borough of Queens, be amended as follows:

Column Number	Column Heading	Column Entry
1	Line	718
2	Project	P-245Q 7032
3	Title	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Queens. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.
4	Total Estimated Cost	$4,221,811 00 **
5	Total Authorizations as of April 1, 1973	
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	246,811 00
7	**1973-1974 Capital Budget**	**3,975,000 00(d)**

Column Number	Column Heading	Column Entry
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5(35,77) 10(19) 945,000 0

That the Capital Budget for 1973-1974, under the Parks, Recreation and Cultural Affairs Administration—Department of Parks—Borough of Richmond, be amended as follows:

Column No.	Column Heading	Column Entry
1	Line	730
2	Project	P-245R 7033
3	Title	Miscellaneous Parks, Parkways, Playgrounds, Museums and Institutional Facilities, Structures and Related Mechanical Equipment, Etc., Construction, Reconstruction and Repaving, Including a Comprehensive Program of Renovations, Richmond. This Project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.
4	Total Estimated Cost	$1,871,467 00
5	Total Authorizations as of April 1, 1973	**
6	Available Sums from Mayor's Prior Certifications as of December 15, 1972	561,467 00
7	**1973-1974 Capital Budget**	**1,310,000 00(d)**
8	Required to Complete	CP
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	5(35,77) 10(19) 912,000 0

Footnotes:

**—Balances of previous appropriations are published pursuant to Section 212 of the New York City Charter, as amended.

CP—Continuing Project.

(d)—Funds for design and/or related professional services such as scope preparation, construction supervision, surveying, etc., if necessary, to be provided from appropriate lump sum projects.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

JOHN E. ZUCCOTTI, Chairman; MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners; Commissioner GERALD R. COLEMAN voted in opposition.

Referred to the Committee on Finance. Couple with M-1023

M-1031

Communication From City Planning Commission—Tansmitting Amendment of the 1973-1974 Capital Budget, to Add a New Line 29a, Project E-1795, Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City, for (b) Funding.

December 13, 1973.

Hon: THOMAS J. CUITE, *Vice-Chairman, City Council:*

Dear Sir—Transmitted herewith for your information are six (6) copies of an amendment to the Capital Budget which was adopted by unanimous vote of the City Planning Commision at its Public Meeting of Wednesday, December 12, 1973, pursuant to Section 216-225 of the New York City Charter:

(CB-73-30)

Six Affirmative votes.

Very truly yours, GAIL BUXBAUM, Secretary.

CITY PLANNING COMMISSION

Cal. No. 22

December 12, 1973.

(CB-73-30)

Amendment of the 1973-1974 Capital Budget, requested by the Department of Real Estate on September 5, 1973 to add a New Line 29a, Project E-1795, Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City, for (b) funding.

This amendment will provide funding for the acquisition of a privately owned building located at 28-11 Bridge Plaza North. The building is occupied almost exclusively by the Board of Education—Office of School Buildings and the Department of Traffic. The leases with these agencies expire in June 1974 and the annual rental is expected to rise from the current $534,253 to $955,000. The Commissioner of the Department of Real Estate having made a financial analysis based on acquisition costs versus the new rental cost, has indicated an annual cost savings of $83,000 through ownership of the property. Economic analysis performed by the Bureau of the Budget is supportive of the proposed acquisition as being economically feasible.

The building itself contains three sections built at different times on an irregular 25,600 square foot lot. The first section of three stories was built in 1911. In 1927 a six story addition was placed over the original three stories creating a nine story building. A seven story attached annex was added in 1954. There is also an indoor parking area with a 21 car capacity. The total floor area of 175,000 square feet is distributed as follows: Board of Education—118,000 square feet, Department of Traffic—47,000 square feet, and a third tenant, the First National City Bank—10,000 square feet. The building is in sound physical condition and no renovation work is contemplated in the foreseeable future. The present tenants will remain in the building with the Department of Traffic sharing the operating expenses with the Board of Education.

The Bureau of the Budget has indicated that there are sufficient funds in Capital Project E-640 "For the Acquisition of Sites as Required for any School Projects Listed in the Capital Budget, etc" to cover the acquisition cost so that no additional funding is necessary at this time.

On November 28, 1973, Cal. No. 59, the City Planning Commission scheduled December 12, 1973, as the date for a public hearing on the proposed amendment.

The matter was the subject of a public hearing duly held by the Commission on December 12, 1973, Cal. No. 22. There were no appearances. The hearing was closed.

The Commission approved the amendment and adopted the following recommendations:

That the Capital Budget for 1973-1974, under the Board of Education—General, be amended as follows:

Column No.	Column Heading	Column Entry
1	Line	E-29a
2	Project	E-1795

Column Number	Column Heading	Column Entry
3	**Title**	Office of School Buildings, Queens, 28-11 Bridge Plaza North, Long Island City.
4	**Total Estimated Cost**	—
5	Total Authorizations as of April 1, 1973	0
6	**Available Sums from Mayor's Prior Certifications as of December 15, 1972**	0
7	**1973-1974 Capital Budget**	**(b)**
8	Required to Complete	—
9	Period of Probable Usefulness and Annual Debt Service and Maintenance and Operation	20(12a) ¶ —

Footnotes:

(b)—Site Acquisition Funds, if necessary, to be provided from appropriate lump sum projects.

¶—Additional annual debt service has been included under Colnumn 9 under appropriate lump sum projects.

Column 9—The figure shown in parenthesis after the statutory period of usefulness refers to the particular paragraph of Section 11.00 of the Local Finance Law applied in determining such term of years.

JOHN E. ZUCCOTTI, Chairman; MARTIN GALLENT, Vice-Chairman; GERALD R. COLEMAN, GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

Referred to the Committee on Finance. Couple with M-1024

At this point the Vice-Chairman (Mr. Cutie), moved that the Council recess for the purpose of convening various Committees of the Council, and adopted. Whereupon the President declared the Council to be in recess.

ROLL CALL AFTER RECESS

Present

President Pro Tem. of the Council (Mr. DiBlasi)

Thomas J. Cuite Vice-Chairman	Howard Golden	Mrs. Aileen B. Ryan
Angelo J. Arculeo	Mrs. Carol Greitzer	Edward L. Sadowsky
Frank J. Biondolillo	Kenneth Haber	Barry Salman
Carter Burden	Leon A. Katz	Saul S. Sharison
Eldon K. Clingan	Mrs. Ruth Lerner	Theodore Silverman
Monroe Cohen	Thomas J. Manton	Stanley Simon
Edward V. Curry	Eugene F. Mastropieri	Mrs. Muriel Stromberg
Michael DeMarco	Anthony J. Mercorella	William C. Thompson
Alvin Frankenberg	Robert I. Postel	Matthew J. Troy, Jr.
David B. Friedland	Morton Povman	Walter Ward
Anthony R. Gaeta	A. Joseph Ribustello	Theodore S. Weiss
	Frederick W. Richmond	

Excused: Mr. Katzman.

The presence of a quorum was announced by the President Pro tem of the Council (Mr. DiBlasi).

REPORTS OF SPECIAL COMMITTEES

M-1032

Report on the Special Committee on Methadone—Interim Report on the Special Committee on Methadone Treatment Programs—"The Future of Methadone Maintenance in New York."

The Special Committee on Methadone respectfully

3027a
Exhibit U

REPORTS:

THE FUTURE OF METHADONE MAINTENANCE IN NEW YORK

Councilman

Carter Burden, Chairman
Howard Golden
William C. Thompson
Stanley Simon
Anthony R. Gaeta
Eugene F. Mastropieri
Frank J. Biondolillo

Table of Contents

I. Introduction
II. Findings
A. The Growth of Methadone Maintenance: The Need To Restore Quality of Treatment.
B. Government Funding of Methadone Programs: The Absence of Accountability and Objective Criteria For Reimbursements
C. Inadequacy of Existing Regulation of Methadone Programs
D. Private Programs
E. Community Issues
F. Multiple Drug Abuse: A Problem Without A Program
III. Proposals
A. Legislative Recommendations
B. Administrative Recommendations

I. Introduction

New York City has been the leader in developing and expanding the concept of methadone maintenance treatment for heroin addiction. No other city in the world has so successfully transferred so many heroin addicts from dependence on an illicit drug to treatment under legal auspices in so short a time. Accordingly, no other city is in a better position to assess the proper place of methadone in an overall approach to the program of drug abuse.

Unfortunately, that assessment has not been made by the responsible government agencies. Even more unfortunately, the rapid expansion of methadone maintenance has left New York City without a truly comprehensive strategy to deal with drug abuse.

Towards that end, the New York City Council, on September 18, 1973, established a Special Committee, under the chairman of Councilman Carter Burden of Manhattan, to investigate and evaluate methadone maintenance treatment programs in New York City. At that time, the Special Committee's mandate with regard to methadone was recognized as only the first expression of the City Council's concern that there was need for a comprehensive, in-depth evaluation of all drug programs, currently operating in New York City—including drug-free treatment, prevention and detoxification programs.

The work of the Special Committee is only partially complete. After three months of intensive investigation, however, it is painfully evident that New York City today is suffering from an overdose of methadone.

In little more than a decade, methadone therapy for drug abuse has been transformed from a controlled clinical experiment into the city's largest and most lavishly subsidized instrument in our war against drug addiction. Ten years ago, there were two methadone maintenance treatment programs (MMTP's) in New York City. During the last three years, when the city itself first entered the methadone field (1970) and the decision was made to make Medicaid reimbursement available for both public and private programs (1972), the growth of treatment facilities throughout the city, and especially on the East Side of Manhattan, has been nothing short of meteoric. At the end of 1973, there are 157 MMTP's in New York City, more than double the number a year ago, and more than 25 additional programs are on the drawing board. Out of an overall patient capacity of 40,156, 34,264 individuals as of November 26, 1973, are enrolled in MMTP's in New York City. 40 clinics are under the auspices of the Health Services Administration, and 92 are operated by non-profit sponsors, principally Beth Israel Hospital (40), Bronx State Hospital (11), and the Addiction Research and Treatment Corporation (11).

The most conspicuous and frequently controversial growth, however, has occurred in the private sector. 25 privately owned and operated MMTP's are now operating in New York City, nearly three times the number two years ago, and their rapid expansion demonstrates that methadone treatment has also become, in many instances, a highly profitable street corner business.

Methadone is undoubtedly the only opiate to have been featured in the "Business Opportunities" sections of the daily press, where methadone entrepreneurs have placed advertisements promising quick and substantial returns to clinic investors.

Methadone is the only area of drug treatment where government agencies and private

for the same public funds. Spurred on by this competition, methadone has been oversold both to the addict and to the public.

As a result of this over-dependence on methadone, which is potentially effective only with exclusive heroin addicts, the city had failed to develop the facilities and programs required to deal with the increasing incidence of multiple drug abuse, particularly among the young. An alarming and growing number of methadone patients, as well as street addicts, are using a variety of different drugs, including alcohol, barbituates, and cocaine—the effects of which are just as disasterous to themselves, to their families and to their communities as their former dependence on heroin.

For those continuing drug abusers, methadone maintenance is simply a new addiction, not a new way of life. New York's flourishing black market in methadone gives evidence both of this increasing incidence of methadone addiction and of the failure of methadone programs to adequately control their drug supplies. In this connection, public hostility toward location of methadone maintenance clinics in residential neighborhoods, apartment houses, and in close proximity to schools and playgrounds is both valid and understandable. The net result is that the most sophisticated and successful methadone programs have been given a bad name due to the activities of fast-buck methadone merchants lured into the field by high profits from Medicaid reimbursement; profits which are virtually guaranteed, whatever the merits of their "programs."

No existing federal, state or city regulations or agencies, including those which disburse Medicaid funds, effectively control the *content* of methadone treatment programs. As a result, too many methadone patients are not receiving the counseling and other social services that are essential for methadone to work. This deficiency is particularly characteristic of most private, profit-making programs; profits are increased by decreasing staff and supportive services and the real cost is borne by the addict who can look forward only to a lifetime of continued addiction. Moreover, strong evidence exists that, because of corruption in screening and referral programs, many addicts leaving prison or applying for welfare are virtually being "sold" to private methadone entrepreneurs seeking a greater number of Medicaid reimbursable patients for their programs. In some instances, young non-addicted drug experimenters have been lured into unnecessary addiction to methadone as a result.

This Committee has concluded that comprehensive city legislation is necessary to deal with the abuse of methadone and to assure that it plays its proper role in drug abuse control. We also believe that new initiatives are needed to end once and for all the wasteful polarization between advocates of methadone and proponents of drug-free modalities. Each approach has its merits; neither is free of fault; and no program or agency has come to grips with the key problem of multiple drug abuse.

We recognize that our conclusions will be controversial. Methadone maintenance has been widely praised for its medical and social values. Moreover, legislative action affecting any area of private medical practice will always be vulnerable to long-standing professional opposition to any form of legal constraint, no matter how necessary.

Even those who operate the best methadone maintenance programs complain often justifiably about the existing red tape and bureaucratic paper work that hamper their operations.

But this Committee has not reached its conclusions to date without extensive investigation, research and study. Specifically, this Committee has carefully examined:

—the operations and programmatic content of public and private methadone programs;

—the relationship of official funding decisions and official monitoring efforts, and;

—the sufficiency of current legal standards governing methadone programs.

This Committee has conducted an extensive survey of all 157 methadone programs in the city, including on-site inspections of numerous facilities in a variety of neighborhood settings, and the distribution of a comprehensive, 30-page questionnaire to every program. The Committee held three day-long public hearings, focusing on private programs (October 23), the regulatory process (October 29), Federal, State and City funding procedures, and the operation of the city's own programs (November 12).

We established a "Methadone Hot-Line" to collect information and complaints from the public concerning treatment programs. We developed the first comprehensive list and geographic distribution study of New York's methadone maintenance clinics, and conducted scores of staff interviews with present and former methadone patients, counselors, and other personnel in methadone programs, owners and operators of methadone clinics and government officials directly and indirectly responsible for funding and monitoring methadone therapy.

The evidence we saw and heard convinced us of the need for City Council action. We recognize, however, that legislation concerning such a sensitive and controversial subject must have the benefit of the broadest public study and disscusion. We also recognize that the Committee's undertaking in this area is the first of its kind in the nation, that the subject of

methadone treatment is as broad as it is complex, and that public understanding of its many aspects and ramifications is still primitive at best.

The Special Committee had originally hoped to complete its investigation of methadone programs by the end of the year, and to have submitted the necessary remedial legislation for Council action before the current Council term expired. As our investigation has progressed, however, new and as yet unexplored aspects of the overall problem have been uncovered—issues which in themselves demand full public inquiry and exposition. Negligence and corruption within the city's screening and referral programs; the growth and sources of the city's flourishing methadone black market; the high incidence of methadone related deaths and the city's procedures for reporting them; the alleged end of the heroin "epidemic" and the largely unpublicized corresponding increase in the number of multiple-drug abusers, especially the alarming increase of alcoholism among both methadone patients and street addicts; the effect of the new state drug law on methadone and other treatment programs; the city's failure to take advantage of various federal funding sources—all are related and vitally important facets of the methadone issue, meriting in-depth investigative hearings which could not be effectively structured or scheduled before the end of the present Council term. Moreover, much of the basic data the Committee has requested both from various government agencies and from individual programs has yet to be furnished. This material is essential to the Committee's investigative and evaluative work and if greater voluntary cooperation is not forthcoming, the necessary steps must be taken to compel full and accurate compliance.

In the judgment of the Committee, the methadone issue is simply too important, and the need for responsible, in-depth evaluation of methadone programs too critical to countenance either a "final" report or the submission of legislative remedies which are anything less than completely comprehensive. We have decided, therefore, to issue an interim report at this time which summarizes our investigative work to date and the conclusions we have drawn from it, and outlines key proposals for both legislative and administrative action in the near future.

We are submitting this report with the recommendation that the extensive work begun by this Special Committee be expanded upon as is necessary and that appropriate legislation be submitted for Council consideration.

II. FINDINGS

A. Growth of Methadone Maintenance: The Need To Restore Quality of Treatment

Narcotic addiction treatment facilities were virtually unknown until 1952 when Riverside Hospital, a 140-bed facility, was opened to treat adolescent addicts. Only one other city hospital provided any detoxification or other treatment for drug abusers. As a result of discouraging follow-up surveys, which showed that most Riverside patients return to addiction after leaving the hospital's supportive drug-free environment, the facility was closed in 1963. In the same year, Drs. Vincent Dole and Marie Nyswander, began an experimental program treating addicts with medication to enable them to function productively they looked at addiction as primarily a physiological disorder (as opposed to the psychological focus that has characterized the Riverside program); at first morphine was tried as a medication to control the physical "hunger" then methadone in gradually increasing dosages until the patient not only lost his craving for heroin but also experienced no "high" if he took heroin.

Once a stabilizing dosage of methadone had been achieved, after gradual build-up over 6 months, the addicts under study were found to be able to function productively; to return to their families; return to school; obtain employment, avoid crime. But these early experiments not only supplied addicts with methadone, they were a virtual incubator of supportive services and counseling. All of the addicts were over 21; the original working group of 6 made one-to-one guidance and counseling possible. On methadone, the addict could be led to stable work and family relationships after a period of in-patient care and counseling and with detailed social service follow-up. The "addiction" remained, but, since it was a comparatively "controlled" addiction, a new term was invented: methadone "addiction" became methadone "maintenance."

The fact that methadone is itself addictive must be kept in mind in evaluating the "success" of methadone as a form of treatment for drug addicts in New York City. It is no trick to keep a heroin addict on methadone in a maintenance program. What is important is whether the addict is given, as in the early methadone experiments, sufficient medical and psychiatric care, counseling and other social services to become a stable member of his community. In the majority of methadone maintenance programs in New York City and especially in private, profit-making programs, these supportive services are not being actually provided.

Although the city's leading professional methadone practitioners, including the most distinguished and expert pioneers in methadone research, really acknowledge this situation in private, they have been regrettably reluctant, with few exceptions, to speak out publicly. Methadone is not to addiction as insulin is to diabetes; methadone *alone* does not cure or rehabilitate the addict. This often-used analogy is not appropriate, and the methadone

experts know it. Their silence, in part motivated by the fear that any criticism of any methadone program might endanger the entire treatment modality, has encouraged widespread public and official tolerance for methadone "programs" which fail to provide the essential supporting services. Only a very few of the 34,000 methadone patients in the city today benefit from the type of services provided to that first group of 6 hardcore heroin addicts.

The rapid expansion of public use of methadone beyond the parameters of the successful controlled experiments came about principally for two reasons: methadone maintenance seemed to offer quick and measurable results; and, in part as a consequence, virtually unlimited public funding was made available.

Public officials in the city and state, with the best of intentions, were seeking a method for dealing with the expanding problem of drug abuse that showed results and fit within budgets. Drug-free programs seemed to offer little in the way of demonstrated success; what success was achieved required physical facilities for in-patient care, and obviously, took a great deal of time, personal attention and money. It was perceived that the public would not support an expensive effort to feed, clothe, house and generally shepherd the lives of a hundred thousand heroin addicts. Governor Rockefeller's civil commitment programs offered little in the way of treatment; jail offered none. Methadone maintenance seemed to offer an inexpensive alternative: because "success" could be demonstrated by citing immediate figures showing the number of addicts staying on methadone and returning to school, work and family, methadone was obviously politically more palatable than drug-free programs, which could not match the early record of methadone maintenance for quick social stabilization of addicts. In the ensuing competition for available public funding of drug treatment, the drug free programs soon lost the lion's share of dollars.

What was all too conveniently forgotten in the quick expansion of public methadone treatment was the fact that the maintenance programs require virtually the same expensive support services as drug-free programs in order to stabilize addicts at school, home, or work, and that methadone works only for a limited category of drug abusers, primarily "mature" heroin addicts. Moreover, in the process of competing for public funds, drug free and methadone advocates split into warring camps instead of cooperating with one another to develop an integrated approach to the broad problem of drug abuse. Medical and psychological data were stretched to make political points in a [illegible] dollars. Methadone won the battle for funds, but has not won the battle against drug [illegible]ion.

B. *Government Funding of Methadone: The Absence of Accountability And Objective Criteria for Reimbursements.*

There are three major sources of government money for methadone clinics:

—100 per cent state dollars from the State Drug Abuse Control Commission (DACC);

—100 per cent federal dollars from the National Institute of Mental Health (NIMH); and

—50 per cent federal, 25 per cent state, and 25 per cent city dollars from the Medicaid program.

The most important of these sources is Medicaid. DACC and NIMH moneys were available early and were the first funders of methadone. The City had favored the retention of DACC as the principal funding agency, because this arrangement required no city tax dollar contribution, but the state favored a takeover by Medicaid of the major funding role, and the popularity of methadone—and the attendant waiting lists of heroin addicts—forced the city and federal governments into the picture.

Direct DACC grants for methadone programs in New York City in 1973 totaled $13,637,137. DACC also operates methadone clinics in 11 of the 18 New York City facilities it operates on its own. NIMH has a policy of only funding multi-modality drug treatment programs. Accordingly, the only NIMH money in the city for methadone treatment comes in the form of grants to programs that include such treatment as part of a larger treatment facility. Fifteen such programs, primarily those operated by the Addiction Research and Treatment Corporation, receive a total of approximately $6.5 million in NIMH funds yearly.

Medicaid provides by far the greatest percentage of total funding for methadone maintenance in New York City; more importantly, the availability of Medicaid reimbursement was the crucial factor in the geometric expansion of methadone facilities.

There are three types of methadone maintenance therapy programs in New York City: 40 public clinics run directly, or on a contractual basis, by the city's Health Services Administration; 92 hospital-run clinics, and 25 private profit-making clinics. Though many HSA clinics are run by private and public hospitals through city contracts, these are not to be confused with the second variety of hospital clinics, many of which are also publicly funded.

Until Medicaid entered the picture, the HSA and hospital clinics had insufficient openings to meet the demand for methadone treatment, even with the state and city funds they were receiving. Medicaid reimbursement provided the impetus for these ongoing programs to increase their capacity to meet the demand and for private physicians to open additional clinics to compete for patients.

The Special Committee has found the administration of Medicaid reimbursement competely insensitive to this wasteful competition; recipient programs have virtually no ac-

countability for their Medicaid reimbursements, at least none that assures that real treatment is being provided.

Until January 1972, the State Medicaid policy had been that experimental therapy (which methadone was then considered) was not reimbursable. In that month, the State Health Department's Medicaid component issued a ruling that both institutions and private physicians could receive Medicaid funds for methadone maintenance treatment on a per addict per day basis.

Medicaid is administered jointly by the City Health Services Administration, the State Health Department, the city Department of Social Services, and the State Department of Social Services, and the State's Division of Health Economics. City Health officials set standards specifically for all Medicaid reimbursed medical facilities. They also monitor quality and frequenty re-examine patients to be sure the work claimed to have been done was in fact done. The Division of Medical Payments of the Bureau of Income Maintenance of the City Human Resources Administration issues the actual Medicaid checks unless city health officials tell them not to.

Each public or semi-public methadone maintenance program is reimbursed by Medicaid at a per patient per visit rate set in Abany by the State's Bureau of Health Care Reimbursement of the Division of Health Economics of the State Department of Health. Private methadone maintenance clinics are similarly reimbursed, at the standard rate for patient visit to a general practitioner. In January 1972, the rate for GPS was $4.00 per visit; private methadone clinics are still generally reimbursed at $4.00 per visit, although the "GP" rate is now $5.60. First visits to such clinics, however, are covered at the $5.60 rate, since they are supposed to include a physical examination.

The important fact, however, is that assigning the "GP" rate as the basis for reimbursing private methadone services is arbitrary and appears to bear little relationship to the cost of services actually provided. This is readily apparent from the great disparity among the various reimbursement rates for public, non-profit and private clinics, which range from $4.00 to $14.69 per patient per visit.

This Committee has called witnesses and interviewed staff from every appropriate agency at all levels of government, and no one has been able to give a satisfactory answer for this disparity.

Some programs obviously are in a position to justify the reimbursement received. The Bernstein Institute's high rate ($14.69) of reimbursement includes costs of complete medical back-up services for all methadone patients (short of inpatient treatment), central intake, vocational guidance specialists, staff at the Master of Social Work level and larger administrative overhead than any other clinic or group of clinics. The Bernstein Clinic has 7 counselors per 260 patients instead of just the minimum FDA requirement of 4 per 300. Hospital clinics, subject to union agreement, pay higher wages than any other program for essentially the same services. Accordingly, their reimbursement payments are higher.

Hospital operated clinics may also average all their costs and allocate a disproportionate amount to methadone, or include depreciation of facilities.

But this Committee has found no satisfactory overall explanation for the patchwork pattern of Medicaid reimbursement or for the expenses which are, or are not, considered reimbursable.

Private, out-of-hospital methadone clinics are funded at an arbitrary "GP" rate with no reference to costs; city-operated facilities are funded at the lowest non-private rate; and other publicly-funded programs are funded at widely diverse levels purportedly varying according to costs of services provided. There is no incentive for private programs to offer the neces[illegible] back-up social services; and there is no quality-control for publicly-funded program[illegible]h are reimbursed for costs regardless of their record of effectiveness. [illegible]e major f[illegible]ource for methadone maintenance programs, in short, provides no accountability fo[illegible]ram *content*; the federal, state, and city agencies directly responsible for regulating [illegible]adone have also failed to establish and enforce standards of program performance. Moreover, a number of essential supportive services, including counseling and job placement, are not considered reimbursable expenses under Medicaid Criteria.

C. *Inadequacy of Existing Regulation of Methadone Programs*

No agency responsible for overseeing methadone maintenance programs in New York City gives the same number as any other such agency when asked how many programs are currently operating in New York City. This fact is indicative of the uncoordinated and ineffective pattern of public regulation that characterizes this field.

Ten distinct city, state and federal agencies regulate the use of methadone in one way or another. These agencies have been found to be in considerable conflict and non-communication with each other. Representatives of the various departments, when contacted by the Committee, were sometimes unaware of the existence of their counterparts in other agencies with similar jurisdiction. And in one case, the head of a powerful unit of one of the involved departments did not know that the statute his agency operated under had been declared "unconstitutionally vague" by the State Court of Appeals.

1. *The United States Food and Drug Administration (FDA)*—Its Methadone Moni-

toring Staff, headed by Buddy Stonecipher in Rockville, Maryland, is the principal regulatory body. FDA has established detailed requirements for operating methadone programs, including staffing patterns, application procedures, and quality of care. Unfortunately, FDA has shown little capacity to enforce its regulations. The FDA will not act until the designated state "authority" has acted, and in New York State, the State "authority," DACC, is still in the process of formulating its own standards. FDA's reaction to New York State inaction was and is to give all MMTP's in the State "interim approval" no matter how non-compliant they are. Close questioning of Mr. Stonecipher and Dr. S. Seymour Joseph of DACC by Committee Chairman Burden at the Committee hearings on October 29th revealed that both of these men were aware of their agencies' respective inaction and yet had no solution for dealing with it.

2. *Drug Abuse Control Commission of New York State*—"DACC" was named the State authority for FDA purposes by Governor Rockefeller after a considerable period of inexcusable intra-state agency warfare between the State Health Department and DACC's predecessor, the Narcotics Addiction Control Commission. Six valuable months were lost; 46 other states had already named official drug agencies before New York's governor acted. Moreover, Dr. Joseph, the DACC Associate Commissioner in charge of inspection, admitted to this Committee at its October 29th hearings that DACC had yet to perform its inspection function in any kind of organized way and that its regulations were still in draft form and awaiting approval by various unnamed officials.

3. *Drug Enforcement Administration (DEA) of the United States Department of Justice*—With offices in New York and Washington, DEA is responsible for preventing methadone "diversion." Under FDA regulations, DEA must inspect and approve each clinic's drug storage facilities and record-keeping. Since June, DEA has recommended closure of 17 New York City MMTPs to FDA and, to date, only two have been acted upon. Because FDA's persistent inaction, DEA is currently seeking new federal legislation (S 1115) giving it the power to close methadone clinics on its own without having to go through FDA. This Committee strongly endorses S 1115 and urges its speedy adoption by Congress.

4. *Special Action Office for Drug Abuse Prevention (SAODAP)*—In the Executive Office of the President. SAODAP is supposed to coordinate all federal drug abuse control efforts. In reality, one of its primary functions is to mandate the on-going rivalry between DEA and FDA. SAODAP has estabilised the Methadone Policy Review Board, a group that meets once or twice a month in order to discuss changes and improvements in existing FDA regulations.

5. *The New York State Department of Health* was temporarily removed from the methadone picture when Governor Rockefeller designated DACC as the State's drug enforcement agency pursuant to FDA methadone regulations. Subsequent to that decision, the Health Department determined that methadone clinics should also be subject to the approval procedure of Article 28 of the State's health law governing new medical facilities. However, the New York Court of Appeals declared Article 28 and Section 700.2(6) to be unconstitutionally vague in the case *People v. Dobbs Ferry Medical Pavillion*. State Health was also regulating abortion clinics under the same statute and regulations, and one clinic, Dobbs Ferry, refused to participate in the regulatory process. The Attorney General of New York sued to force compliance, but the clinic won. Health Department lawyers contend that the *Dobbs Ferry* decision is not applicable to its regulation of methadone clinics, but a legal challenge has already been brought by the Ithaca Clinic in Manhattan, one of the first methadone programs to be disapproved pursuant to Article 28.

The Article 28 process itself involves approval procedures by four other agencies, three State and one City, which must hold hearings in order to determine if the proposed facility should be established.

The Article 28 process itself involves approval procedures by four other agencies, three State and one City, which must hold hearings in order to determine if the proposed facility should be established. *The New York City Comprehensive Health Planning Agency (CHPA)* and the *Health and Hospitals Planning Council of Southern New York* must each hold hearings on the proposed clinic, write a report recommending approval or denial of the application and send it on to the *State Hospital Review and Planning Council*. The agency reviews the two reports, writes its own recommendations and sends the file on to the *Public Health Council of New York State* which makes the final decision.

These hearings are supposed to take place before the clinic in question is established, but since all of the City's 157 methadone programs were in existence before the State Health Department decided to assert Article 28 jurisdiction over such facilities, existing clinics, although deemed to be "not established" within the meaning of Article 28, continue to operate until the complex and lengthy Article 28 procedures are completed. Even if the constitutionality of Article 28 is upheld by the courts, it still provides no on-going review of program content.

5. *The Bureau of Narcotic Control of the State Health Department (BNC)*—Under Article 33 of the State Public Health Law, the BNC is supposed to control drug diversion.

Exhibit U

At the Committee's October 29th hearing, Lawrence Ascione, a BNC inspector, admitted that BNC is a carbon copy of federal DEA. And it follows the federal agency's standards exactly. Under State law, without BNC approval, a methadone clinic cannot purchase any methadone. Article 33 has recently been revised, and BNC is now supposed to inspect every clinic in the State every six months.

6. *New York City Addiction Services Agency (ASA) of the City's Health Services Administration*—ASA has no legal authority to inspect any clinic except those operated by HSA, ASA's parent agency. HSA officials have themselves concluded that "there is much duplication of effort among the various agencies included in regulation of methadone programs."* More importantly, these officials have also found a "significant gap in the present regulatory scheme . . . the lack of regulation of program content." Thus, this Committee is not alone in concluding that "there does not now seem to be any assurance that all addicts actually receive counseling and rehabilitative treatment." The quotations are from an in-house memorandum not made public, but uncovered by this Committee.* It It should be noted that this memorandum is directly contradictory to published testimony before this Committee by Dr. Robert Newman, Assistant HSA Commissioner in charge of the City's methadone programs before this Committee.

---

* August 13, 1973, Memorandum of Harold Stultes and Kathryn Gabler to Gordon Chase, Administrator of HSA.

Specifically, this Committee believes that the City itself must act to provide just such assurances, particularly in the case of private methadone programs, which have escaped local regulation altogether.

The interim report attempts only a brief synopsis of the highly complex—and confused—regulatory structure governing methadone treatment in New York. We intend to deal in far greater depth and detail with this issue in our final report and recommendations. The negligence and inaction of FDA and DACC, the widespread incidence of interagency conflict and bureaucratic buckpassing at both the Federal and State levels, the laissez-faire attitude of the City Health Services Administration are all issues which deserve, and will receive, documentation more extensive than can be accommodated in an interim report.

In addition to this patchwork pattern of overlapping agency functions and enforcement, methadone treatment programs are subject to a variety of Federal and State regulations.

At present, the primary regulations are those promulgated by FDA, which set minimal standards for staffing patterns and other aspects of clinic operations. Under the new FDA regulations which went into effect last March, the designated State enforcement agency—in the case of New York—DACC—is empowered, but not required, to establish more comprehensive and stringent rules and standards. To date, DACC has not issued its own regulations.

Although the new FDA regulations were strengthened, the Committee has found that there are many crucial aspects of clinic operations which are not covered, either by FDA or any other agency. Specifically, there are no guidelines for clinic location, no limitations on clinic size, no mandatory qualifications for clinic staff, inadequate standards for screening, and, in general, very little to guarantee the quality and effectiveness of program content.

In short, the Committee has found both that existing regulations are inadequate per se and that the enforcement of those regulations is almost totally ineffective.

D. *Private Programs*

Of New York's 157 methadone maintenance treatment programs, 25 are private clinics, with 8,500 patients or more than one-fourth of the City's total legal methadone users. They are private in the sense that they are privately operated, for profit. However, their income comes nearly entirely from public funds. The practical effect is that public funds pay the balance of private clinic's expenses, and what is left over goes to the clinic as profit—in many cases more than $100,000 per year. In another sense, these private methadone programs are "public"; as they are generally located in residential communities and bring in an influx of non-residential addicts. In almost every instance, their location has nothing to do with the real need of the community for such a facility, or with the place of residence or employment of the patients in the program. The determining criteria for location generally are low rents and the convenience of the program sponsor.

Federal regulations require that a methadone clinic be sponsored by a physician. But it is not required that the doctor be in the methadone field, have any experience with drug abuse therapy, or know anything about methadone or the treatment of people with it. Moreover, there are no Federal, State, or local requirements regarding such clinics. Consequently, syndicates of investors have formed to reap the benefits inherent in "no-string" Medicaid reimbursement. Doctors are hired by these absentee drug-lords to run the program . . . or at least to sign the FDA forms which require a doctor's signature. The doctor need not be at the clinic full time. For example, one doctor is the "medical director" of a methadone clinic and abortion clinic, and at the same time is a full-time gynecology practitioner.

The opportunity to use large-scale methadone programs as a device to drive down real estate values has not been lost on the City's alert land developers. The largest private clinic in Manhattan's east side is owned by a chain leading to a construction company. Several private programs have also been granted mysterious, unofficial "grace periods" exempting them from compliance with Building Code provisions regarding certificates of occupancy and fire regulations. Officials of the Buildings Department were unable to justify to this Committee their utter failure to act against several operating clinics which have never received required certification.

No regulation or agency controls the size of private clinics, which range from a handfull of patients to close to 1,000. Those most familiar with effective methadone treatment—including Dr. Vincent Dole—stressed to this Committee the need to limit the size of all programs to a manageable working number of about 200 patients. It is increasingly difficult to provide the fabric of supervision and counseling as programs expand beyond this number. HSA operated programs have been hardly more sensitive to this problem than private operators; the 40 HSA facilities vary in size from 36 to 600 patients. But overcrowding of private programs represents a more immediate problem since the location of private clinics is likewise free from official control.

Locations for private programs, unlike those for ASA-sponsored facilities, do not come under the scrutiny of community planning boards, the Planning Commission, the Board of Estimate or the City Council. Free from an effective public controls, private methadone facilities have found their way into apartment houses, and have sprung up across the street from grammer schools. Many residential neighborhoods in the city have been confronted with the spectre of virtually unregulated private, profit-making methadone clinics, too big to control those patients who loiter and peddle methadone. In many cases, as DEA has found, the custodial arrangements for maintaining the clinics' methadone supplies virtually invite theft. Location of dispensing "windows" a few steps from the front door is typical of the "programs" that have been crammed into converted professional apartments or storefronts. It is hard to imagine such laxity being tolerated if legal "heroin" were being distributed in neighborhoods instead of legal methadone. But methadone, like heroin, is an opiate; each is addictive; each is poison for the young; each is sold in a black market on the street; each is deadly; each is responsible for crime and dependency on welfare. Indeed, there are signs that some methadone clinics are now admitting methadone addicts—not just heroin addicts—at least for stabilization of their habit.

Perhaps the best evidence of the absence of standards for the operation of private methadone clinics is the fact that the only recourse available to close or discipline a clinic whose operations constitute a positive danger to the community has proven to be the vague "public nuisance" action. The State Attorney General brought such an action against the clinic operated by Ithaca Medical Center in Manhattan and was at least partially successful, enjoining the clinic from operating with more than 700 patients and ordering it to take steps to control loitering by the patients. This clinic has been the scene of police arrests for drug traffiking; has continued to operate without a certificate of occupancy; is in violation of the fire laws; and was found by the Court to be drastically deficient in providing counseling, therapy, and other supportive services. Yet the City's health officials failed to act to close this program, and claim they have no power to do so. Both City and State health officials were in the midst of considering an application for *expansion* of the facility at the same time the Attorney General was trying to get the facility declared a public nuisance. The clinic continues to operate today, earning substantial profits from Medicaid at the expense of the neighborhood and the more than 450 patients to whom it is dispensing methadone.

Why must the Attorney General do a job which those closest to the field of methadone maintenance operations—the city's Health Services Administration, Board of Health and Addiction Services Agency, and the State's Department of Health—should be doing? Why should state officials in charge of Medicaid reimbursement be keeping a "public nuisance" in business? There is plainly no excuse for the continuing abdication of responsibility by city and state health agencies for establishing and enforcing standards of program content for private methadone programs.

The absence of standards for location, size, staff and content of private methadone programs is an open invitation to corruption of all varieties. Audits by the Comptroller's office have revealed serious conflicts of interest even in public programs, including awarding of no-bid contracts for legal services, janitorial services, automobile purchases, and urinanalysis to employees and relatives of clinic personnel. Evidence also exists indicating a pattern of payoffs for referrals of addicts—and non-addicts—by private methadone clinics.

Referrals are the life-blood of private clinics dependent on a continuous stream of addicts to keep Medicaid reimbursement at constant or growing levels. The primary sources of referrals to such facilities are ASA's central referral unit, the Human Resources Administration's several referral centers for drug users who seek public assistance, and the Riker's Island referral unit, for drug users being released from local jails. These referrals often cannot be explained by the location of the home of the alleged heroin addict, or his or her place of employment, if any. "Addicts" released from jail have apparently been referred to

a hotel in one *borough* for living quarters, and a clinic in another borough for methadone. And some persons referred to methadone clinics evidently do not have documented two year histories of addiction as required under FDA regulations.

This Committee intends to investigate the entire City referral process, not only because of the possible corruption and cruelty involved, but also because of the obvious problems such referrals create for good methadone programs striving to survive in hostile communities. If a community sees addicts "imported" into its neighborhood for the sole purpose of maintaining a Medicaid cash-flow, it will understandably be hostile to even the best of programs to treat the addict already in the neighborhood.

This Committee believes that methadone programs have a definite place in this City's addiction-plagued neighborhoods. But this Committee is also aware that the location of clinics throughout the city—both public and private—bears little resemblance to the location of the city's population of heroin addicts. For example, there are nearly 60 MMTP's on the East Side of Manhattan, whereas on the West Side of Central Park, 8th Avenue to the Hudson, not a single clinic exists! This irrational pattern of location—which is totally unregulated in the case of private clinics—only makes the problem of dealing with irrational community fears that much harder to solve.

E. Community Issues

Community animosity toward methadone maintenance facilities has been a real obstacle to their successful operation. But in this regard, clinic operators have in many cases been their own worst enemy. And methadone proponents have also failed to insist on strict standards for program content which might have prevented exploitation by profit-motivated investors and operators.

Most private clinics have been established with virtually no advance discussion with community interests. This lack of notice alarmed neighborhoods which were taken by surprise and under the circumstances, feared the worst. By contrast, New York Hospital, when establishing its program, overcame initial apprehension by public education and special services, such as additional street lights and security guards.

In classifications for zoning and other purposes methadone clinics are considered as doctor's offices, rather than larger health facilities, permitting the influx of hundreds of patients to private facilities in areas where they will be highly visible. By contrast, established hospitals absorb this problem in the larger context of medical centers' traffic patterns.

The sight of large groups of patients congregating on sidewalks many times a week tends to magnify the problems created by those small percentages of addicts who rob, harass, and peddle methadone in the neighborhood of their clinic. Special burdens have been placed on many police precincts throughout the City that could have been avoided by enforcement of simple standards as to size and location of methadone facilities. Methadone, we believe, must continue to be a part of the City's approach to drug abuse; however, we must also understand the limits of methadone as a solution to the drug problem, particularly in the growing problem of multiple drug abuse.

F. Multiple Drug Abuse: A Problem Without a Program

Multiple drug abuse is the Achilles heel of methadone therapy. Methadone does not solve that kind of problem; in fact, it becomes a part of it. Despite the spread of multiple drug abuse in New York, the City has only three facilities specifically structured to detoxify and treat multiple drug abusers This is particularly true in the case of those who mix alcohol and methadone, and reflects the abysmal record of New York State in dealing with all forms of alcohol abuse.

The thrust of the work of the City's Addiction Services Agency and the Health Services Administration's Methadone Maintenance Treatment Program has been to combat heroin addiction. While the quality and quantity of heroin available on the streets has decreased, abuse of other drugs (alcohol in particular) in combination with one another, has been on the rise. Illegal methadone is now found in large quantities on the black market. The Drug Enforcement Administration reports that a tab of methadone will sell for anywhere from $7 to $9 and a bottle of liquid methadone from $10 to $15.

There are no City-wide statistics on multiple drug abuse. But Martin Mayer, Director of the ASA Court Referral Project, reports that nearly 100 per cent of the addicts screened for his project are multiple drug abusers. 10 to 15 per cent of their referrals are primary users of alcohol. All of the programs that responded to this Committee's questionnaire listed alcoholism in combination with methadone as the single most important drug abuse problem for their methadone patients. Dr. Vincent Dole of Rockefeller University, who initiated the methadone detoxification program in the City's detention facilities, has also reported an increase in the number of alcoholics in prison. Phoenix House reports that at least 70 per cent of the residents of this drug-free community are abusers of more than one drug and a federal official estimates that 90 per cent of all addicts fall into this category.

A recent report by the Ford Foundation, *Dealing with Drug Abuse*, finds that 40 to 60 per cent of all heroin addicts use a secondary drug on a regular basis. Methadone maintenance in no way treats this secondary drug abuse and many methadone patients continue using other drugs and alcohol. HSA has referred patients with severe alcohol problems to

the Morris J. Bernstein Institute. Only recently have the City's Methadone Program planner begun meeting with the Department of Health's Bureau of Alcoholism to develop a program which will deal with both the primary and secondary forms of addiction.

In another 1972 report, "Comprehensive Plan for the Control of Drug Abuse and Addiction," ASA stated that there is "an increasing incidence of multiple drug abuse." It admitted that "current forms of chemotherapy are not suited to this problem."Yet it failed to specify what "tailoring" is required to fit the special needs of the multiple drug abuser.

In short, our official drug treatment machinery is at least one step behind the City's drug abuse problem. The 1972 report of Columbia University's Methadone Maintenance Evaluation Unit stated the problem in the clearest possible terms:

> "With the rapid expansion of the methadone program, and the associated relaxation of admission criteria, there has been a trend toward an increase in the proportion of patients who demonstrate problems of multiple drug use, alcohol problems and associated behavioral problems. Among the patients admitted through September, 1970, these problems were recognized in only about 10 per cent, whereas among the patients admitted since September, 1970, alcohol problems are indicated in 13 per cent of the patients, and multiple drug use is indicated in another 10 per cent. Discussions of these problems with several of the unit directors, indicate that these are minimal figures, and that, if heroin continues to be difficult to obtain on the street, these associated problems will probably increase among patients who apply for treatment.
>
> Currently it would appear from these data that alcohol abuse, and continued multiple drug abuse with associated behavioral disorders present problems in the management of approximately 20 per cent of the patients, and tend to interfere with their social rehabilitation by making it more difficult for them to obtain employment or to remain employed, and these problems continue to be the major reason for discharging patients from treatment, after all efforts of the treatment staff have proved fruitless. Alcohol appears to be a problem for the older patients (over 20) and the blacks, whereas multiple drug abuse is more commonly a problem of the young and the white, and the women have problems in both areas. The exception to this is the use of cocaine which appears to involve all segments equally."

The growing problem of multiple drug abuse compels us not only to examine carefully and delimit the proper role of methadone maintenance treatment, but also to look beyond methadone to the other modes of treatment that must be developed to create a total strategy for dealing with drug abuse.

III. PROPOSALS

A. Legislative Recommendations

The Committee has concluded that neither the Federal or the State governments do—or can provide the on-going control and supervision needed to insure effective methadone treatment in New York City. Nearly one-third of all MMTP's in the nation are locating in our City; no other American locality has so many drug addicts or so great a need for a coordinated programmatic approach to the problem of drug abuse.

We propose, therefore, that the necessary legislation be developed to give City government a central role in the regulation of all methadone maintenance treatment programs operating within its boundaries; a role which the present City administration has refused to accept.

As action in this area necessarily involves the joint efforts of both the City Council and the administrative branch, the exact form of legislation must await the formation of the new administration which will take office in January. Since prompt action is essential, however, the Committee wishes at this time to outline the objectives which should be sought through subsequent legislation.

First, an appropriate City agency (presumably the Department of Health) must be designated and empowered by the Council to regulate all MMTP's in New York City. This agency would be directed to implement and enforce specific standards and requirements set forth by the Council and to develop detailed regulations subject to final Council approval. All MMTP's operating within New York City would be required to register with this agency within 60 days. Failure to register on the part of any MMTP would result in its closure.

Second, these regulations would not duplicate, but supplement existing Federal and State standards. Among the essential points to be covered are:

—*Location of Clinics:* The location of clinics must be subject to City approval and review based on clearly defined general and specific criteria—i.e., specific sites (in proximity with schools, etc.), would be prohibited entirely and a general ratio between the number of clinics within each planning board district and the number of addicts living or working there must be imposed. Consultation with the community planning board and local elected officials must also be an integral part of the approval process. New clinics could not be established without such city approval and existing clinic locations would be subject to

mandatory review procedures, designed to bring about an equitable distribution of methadone facilities on rational standards of actual need and availability. At present, no such location guidelines exist either for methadone or other drug programs, and to provide them will not only serve to prevent programs being established in inappropriate locations, and the over-concentration of facilities in any one area, but it will also facilitate the establishment of treatment facilities in areas where they are clearly needed, but where they have been frustrated by irrational opposition and pressure.

—*Clinic Facilities:* MMTP's can be found today in firegutted bowling alleys, residential apartment buildings, 2-room doctors offices and a variety of inappropriate, often dangerous, hastily-converted physical structures. Many were discovered by the Committee's investigators to be operating without the necessary Certificate of Occupancy, and continue to do so due to the indifference and lethargy of the Department of Buildings. Along with location standards, special requirements governing the physical facilities where MMTP's can operate must be established, including, if necessary, appropriate changes in the Building and/or Zoning Codes.

—*Number of Patients Per Clinic:* Virtually every medical expert in the methadone field agrees that size is an essential factor in the quality and effectiveness of treatment delivered by any MMTP. If the patient load is too large (Dr. Vincent Dole has suggested 200 as the maximum number) it is simply impossible to provide the counseling and supportive services needed for true rehabilitation. The State Health Department recommends, but dos not require, a maximum number of 300 patients per clinic and this Committee proposes that a mandatory limit of 200 be set by the City for new MMTPs. We further recommend that a realistic schedule be established for reducing existing programs to the same maximum size. The patient level of the great majority of existing programs, public as well as private, exceeds 200, and a phased reduction will obviously be necessary to insure that no methadone patient is abruptly cut-off, and that they are transferred without interruption of treatment. This task, which would have been impossible two years ago, when demand greatly exceeded our supply of methadone treatment facilities, is feasible today, since capacity has been vastly expanded and now exceeds demand. Some decentralization and relocation of facilities will be unavoidable, but the Committee believes the expense is necessary and justified if we are to have quality as well as quantity in methadone treatment programs in New York City.

—*Program Quality:* The standards and requirements established under existing regulations governing the content of methadone treatment are, at best, minimal. We proposed that this deficiency be corrected through City regulation and that strict requirements be established in such areas as staff training and qualifications, intake and screening, auditing and reporting practices and follow-up procedures.

Third, for the failure of any MMTP to comply with these regulations or with Federal or State regulations in effect, the city would be empowered, to revoke the clinic's registra-does not require, a maximum number of 300 patients per clinic and this Committee proposes (subject to judicial review). Such action would be taken pursuant to frequent on-site inspection and review of all clinics by City officials and/or upon verified complaint of "an affected person or group".

Standing to complain would be analogous to the procedure before the Board of Standards and Appeals: neighboring property owners, or tenants (but only as a group), neighboring public or private institutions and local planning boards, would have such rights.

Fourth, private, profit-making MMTPs represent a special problem and will require special solutions. To date, these programs have been unregulated at the City level, and the enactment of City regulations (as outlined above) would, of course, subject private, as well as public operators to mandatory standards and requirements for location, size, and program content.

The Committee, however, believes that serious consideration should be given to the alternative of complete elimination of all "private", profit-oriented methadone maintenance clinics. Most of the serious abuses connected with methadone occur in their most blatant form in such private programs; oversized programs; absentee ownership; inadequate supervision; insufficient staff; lack of counseling and related services; poor location; hostile community relations; corrupt referrals. Furthermore, there is no statistical need today for these programs: most non-profit programs are operating below capacity. Indeed, the evidence strongly suggests that the demand of profit-oriented programs for a growing number of patients has artificially inflated the number of persons admitted to methadone maintenance beyond the real level of need for such treatment.

In proposing legislation to regulate the size, location and content of methadone programs we recognize that no matter how stringent the regulations and vigorous the enforcement of them there remains a basic unresolvable conflict between quality treatment and the profit-motive of private methadone operators. It may simply be more efficient to require programs either to go out of business, to drop their profit-oriented status and seek affiliation

with either a City, State, or hospital-operated facility, or, as another alternative (requiring cooperation from the state medicaid authority) to cut off Medicaid reimbursement for all such profit-oriented clinics. Thus the operators would have the choice of closing, remaining open only for those who could afford to pay (and, presumably, use their "buying" power to demand adequate back-up services) or affiliating with a non-profit operation.

At the least, state medicaid authorities must be willing to reassess their formulas for medicaid reimbursement. There is no reason why these arbitrary arrangements must continue to be the special ingredient which keeps the methadone pot boiling with profits. To that end, the Committee is officially requesting the State Health Department to immediately furnish the City Council with certain information: (i) disclose the basis for its calculation of current reimbursement levels; (ii) develop a specific basis, rather than mere reference to "GP" reimbursement, for reimbursing the actual dollar expenditures for all "private" clinics, and (iii) establish a uniform system of cost accounting for all methadone clinics.

In this connection, we believe that, once our legislative proposals are formulated and enacted, state medicaid reimbursement should be discontinued for any methadone facility which fails to maintain continuous "good standing" with the City; such "good standing", of course, could be adversely affected by neighborhood problems, inadequate accounting, or violation of the program standards we propose the City should develop and promulgate.

B. ADMINISTRATIVE RECOMMENDATIONS:

In addition to the Committee's recommendation for legislative action to bring MMTP's under on-going city supervision, we are also proposing a 5-point program for administrative action to deal with abuses in and set new directions for the city's drug abuse treatment programs.

First, we are requesting from the Health Services Administration and the Health and Hospitals Corporation a complete census of (a) all hospital beds in city and proprietary hospitals available for the detoxification of both alcoholics and multiple drug abusers, and a projection of the number of such places budgeted a year from now; (b) all hospital staff personnel trained to detoxify alcoholics and multiple drug abusers; and (c) all in-patient and out-patient slots currently available—and those projected a year from now—for extended care of alcoholics and multiple drug abusers.

Second, we are asking the Addiction Services Agency, the Corrections Department, and the Human Resources Administration to provide the City Council with a complete break-out of all referrals to methadone maintenance facilities by any of the constituent programs or agencies. This data, which will be treated in confidence, should list the names of each patient, his place of residence (or place to which he was referred by such agency to find residence), his place of work, if any, his school, if any, and the name and address of the methadone program to which he was referred.

Third, we are requesting the Addiction Services Agency, in conjunction with the City Planning Commission, to prepare a patient/clinic location comparison which shows the ratio of actual methadone patients living or working in each community planning board district to the private, profit-oriented clinic capacity and the non-profit clinic capacity in such area.

Fourth, we are requesting the Buildings Department to provide to each community planning board the names of each methadone maintenance facility currently operating within the board's district without benefit of a certificate of occupancy or otherwise in violation of the Building Code, and to take immediate action, in consultation with other appropriate authorities, to close such facilities.

Fifth, we urge the Mayor-elect to establish and develop an integrated, systematic city-wide approach to the problems of drug abuse, a system which is now painfully lacking.

The need for a coordinated city-wide drug policy and program with single agency responsibility is paramount and it is a task beyond the scope and ability of existing agencies. The Board of Health seems to have limited resources and too many other duties. ASA, as structured under the present administration, is principally an operating agency, with an increasing emphasis on methadone maintenance, and thus is not in the best position to develop or enforce standards for methadone programs or encourage other types of programs.

A single, central agency could serve as a clearing house for all funding proposals for drug abuse treatment concepts. It could provide a broadly representative sounding board and a focus for encouraging cooperation, rather than competition, among varying approaches to drug-related problems. It could lead the way toward serious efforts to confront the problems of alcoholism and poly-drug abuse, problems which have been seriously neglected in the past as a result of the city's preoccupation with methadone.

CARTER BURDEN, Chairman, HOWARD GOLDEN, ANTHONY R. GAETA, STANLEY SIMON, FRANK BIONDOLILLO, Special Committee on Methadone, December 20, 1973.

Received, ordered printed and filed.

REPORTS OF STANDING COMMITTEES

Reports of the Committee on Buildings

Int. No. 1131-A

Report of the Committee on Buildings, in Favor of Adopting as Amended a Local Law to Amend the Administrative Code of The City of New York, in relation to Air Conditioning Systems.

The Committee on Buildings to which was referred on March 15, 1973 (Minutes, page 416 and 417) the annexed amended local law respectfully

REPORTS:

The proposed amendments provide that in addition to the existing reference standards governing the installation of air conditioning systems, these additional reference standards shall also govern where applicable.

The additional reference standards RS13-7 through RS13-15 are in each case underwriter laboratory standards (UL) which are being adopted as part of the Building Code. These UL standards regulate refrigeration components, condensor and compressor units, limit and safety controls, control cooling and room air conditioners, heat pumps, fan-coil and air filter unite.

A further amendment provides that where reference standard electrical provisions conflict with the electrical code, the latter shall govern.

Accordingly, your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to air conditioning systems.

Be it enacted by the Council as follows:

Section 1. Subdivision (a) of section C26-1300.7 of the administrative code of the city of New York, as added by local law number seventy-six for the year nineteen hundred sixty-eight, is hereby amended to read as follows:

(a) Air conditioning and ventilating systems for all occupancies shall be constructed in accordance with the provisions of reference standard RS 13-1. *In addition, equipment used for air conditioning systems shall be constructed, installed and altered in accordance with the provisions of reference standards RS 13-7 through 13-15. Where any conflicts arise between the electrical provisions of the foregoing reference standards and the New York city electrical code, the provisions of the latter shall govern.*

§ 2. Reference standard RS 13 of part II of title C of chapter twenty-six of such code as added by such local law is hereby amended by adding the following standards to be numbered reference standards RS 13-7 through RS 13-15, to follow reference standard RS 13-6.

REFERENCE STANDARD RS 13-7

UL 207(c) 1970—Refrigeration containing components

REFERENCE STANDARD RS 13-8

UL 303 1972—Condensing and compressor units

REFERENCE STANDARD RS 13-9

UL 353 1972—Limit controls

REFERENCE STANDARD RS 13-10

UL 372 1971—Primary safety controls for gas- and oil-fired appliances

REFERENCE STANDARD RS 13-11

UL 465 1971—Air conditioners, central-cooling

REFERENCE STANDARD RS 13-12

UL 484 1972—Room air conditioners

REFERENCE STANDARD RS 13-13

UL 559 1972—Heat pumps

REFERENCE STANDARD RS 13-14

UL 883 1972—Room-type fan-coil units

REFERENCE STANDARD RS 13-15

UL 900 1971—Air filter units

§ 3. This local law shall take effect immediately.

Note—New matter in *italics*, old matter in brackets [ ] to be omitted.

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL S. SHARISON, LEON A. KATZ, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

In connection herewith His Honor the Mayor transmitted the following message of necessity:

The City of New York, Office of the Mayor, New York, N. Y. 10007:

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A LOCAL LAW to amend the administrative code of the city of New York, in relation to air conditioning systems.

Given under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three. JOHN V. LINDSAY, Mayor.

On motion of Vice-Chairman (Mr. Cuite), the foregoing matter was made a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1160

Report of the Committee on Buildings, in Favor of Adopting a Local Law to Amend the Administrative Code of The City of New York, in Relation to Corridor Doors.

The Committee on Buildings to which was referred on March 29, 1973 (Minutes, page 640) the annexed local law respectfully

REPORTS:

Building code requirements for corridor doors are to be amended to provide for an exception for occupancy classification group G (educational institutions.)

For occupancy classification group G, in lieu of a ¾ hour rated door, solid core wooden doors shall be permitted providing that they are swinging, self closing 1¾ inches thick. For this exception to be applicable the particular institution falling in occupancy classification G must have an acceptable interior fire alarm system installed with regular supervised fire drills and only for those doors devoted exclusively for nonhazardous uses.

Accordingly your committee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to corridor doors.

Be it enacted by the Council as follows:

Section 1. Subdivision b of section C26-604.4 of the administrative code of the city of New York, as amended by local law number twenty-one for the year nineteen hundred seventy-two, is hereby amended to read as follows:

(b) Corridor doors.—Doors that provide access to interior corridors required to have a 1 hr. fire-resistance rating shall be self-closing swinging fire doors with a ¾ hr. fire-protection rating *except that in buildings classified in occupancy group G, in which an acceptable interior fire alarm system is installed and in which regular supervised fire drills are held, the doors to rooms or spaces devoted exclusively to nonhazardous uses in occupancy group G need not be fire-rated, provided they are swinging, self-closing 1¾ inches solid core wood, and have a maximum area of 720 square inches of ¼ inch thick wired glass vision panels.* Other corridor doors except those provided for in section C26-604.2(d), shall be self-closing, swinging, noncombustible or 1¾ inch solid core wood doors, except that in buildings classified in occupancy group H-2 the doors need not be self-closing. Noncombustible mail slots having an area not exceeding 40 square inches may be provided in corridor doors when the opening is protected by a closure activated by gravity or a spring device so as to keep it closed when not in use. Noncombustible louvers may be installed in corridor doors opening into toilets, service sink closets, and electric closets. Notwithstanding the foregoing restrictions in this subdivision, doors not prohibited by subdivision (d) of this section may open from spaces into corridors when in compliance with all of the provisions of paragraph (3) of section C26-604.3.

§ 2. This local law shall take effect immediately.

Note—New matter in *italics*, old matter in bracket [ ] to be omitted.

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL SHARISON, LEON KATZ, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Exhibit U

Int. No. 1195-A

Report of the Committee on Buildings, in Favor of Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Safeguards for Tank Trucks or Other Vehicles with Volatile Inflammable Oils or Liquids, or Fuel Oils, or Similar Products in the Cargo Spaces of the Vehicles.

The Committee on Buildings to which was referred on April 12, 1973 (Minutes, page 754) the annexed amended local law respectfully

REPORTS:

The proposed local law would amend the Fire and Building Codes with respect to the requirements for the storage of petroleum products in approved tank trucks while standing in garages.

Many structures built prior to the enactment of the new Building Code, Local Law 76/68, are presently being used to store vehicles which contain volatile inflammable fuels or oils. Inasmuch as the new Building Code could not be retroactively applied to these structures the Fire Department issued a regulation in August 1970 amending their Specification for Tank Trucks Transporting Combustible Mixtures, Fuel, Kerosene, Lubricating Oil, etc., wherein it was provided "It shall be unlawful to store or keep overnight in any premises a tank containing combustible mixtures, combustible liquids, fuel oil, kerosene or lubricating oils in the cargo tank." The history of fires occurring in fully loaded tank trucks stored in structures built under the old Building Code was very minimal. In order to insure adequate fire safety protection and to permit fully loaded tank trucks to be stored in old code structures, this proposed local law was introduced.

As amended, Building and Fire Code provisions would require:

1. A permit for storage of volatile inflammable oils or liquids, etc., where in excess of 550 gallons in Fire Department approved tank trucks will be granted where such trucks are equipped with battery cut-off switches portable fire fighting appliances and are located within fully sprinklered buildings complying with Chapter 26 of the administraitve code and the zoning resolution of The City of New York.

2. Permits for storage of other oils (i.e., kerosene, fuel oil) in excess of one thousand one hundred gallons will be granted provided in Fire Department approved tank trucks if stored in outdoor spaces with portable fire fighting appliances as the Fire Commissioner may direct or within buildings complying with Chapter 26 having certain minimum fire protection as outlined in 4. below.

With respect to storage of tank trucks within such buildings a sprinkler protection shall be provided for storage of oils in excess of 45,000 gallons; where the quantity stored is between 22,500 and 45,000 gallons, such buildings shall comply with requirements as outlined in 4. below. Where the quantity stored is less than 22,500 gallons sprinkler protection need not be installed provided portable fire fighting appliances are provided as the Fire Commissioner may direct.

3. Building Code Section C26-302.1(a) is amended to provide that the storage of fully loaded tank trucks with other oils (i.e., kerosene fuel oil) shall constitute high hazard occupancy requiring full sprinkler protection only when in excess of 45,000 gallons.

4. (a) Tank trucks storing quantities in excess of 45,000 gallons of products having a flash point over 100° F shall constitute high hazard occupancy requiring full sprinkler protection.

(b) The quantities in excess of 22,500 gallons but less than 45,000 gallons shall require modified smoke protection such as detectors or thermostatic alarms.

(c) For quantities less than 22,500 gallons no sprinkler protection shall be installed provided portable fire fighting appliances are provided as the Fire Commissioner may direct.

Accordingly your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York in relation to safeguards for tank trucks or other vehicles with volatile inflammable oils or liquids, or fuel oils, or similar products in the cargo spaces of the vehicles.

Be it enacted by the Council as follow:

Section 1. Subdivision a of § C19-51.0 of chapter 19 of the administrative code of the city of New York is hereby amended to read as follows:

§ C19-51.0 **Limited storage permit**—a. Permits may be issued for the storage of petroleum and shale oil, and the liquid products thereof, and of coal tar in a manner satisfactory to the commissioner, in buildings or premises other than storage plants, ***approved tank truck or other vehicles,*** or approved buried tank systems, in quantities not to exceed the following:

1. Volatile inflammable oils—five hundred fifty gallons[;], ***except that such oils may be stored in larger quantities in fire department approved tank trucks or other vehicles, pending deliveries, in outdoor spaces, when permitted by the zoning resolution, when provided with portable fire fighting appliances as the commissioner may direct, or,***

when such trucks or other vehicles are equipped with battery cut-off switches, within fully sprinklered buildings complying with chapter 26 of the administrative code and the zoning resolution of the city of New York.

2. Other oils that do not emit an inflammable vapor at a temperature below one hundred degrees Fahrenheit, when tested in a Tagliabue open cup tester—one thousand one hundred gallons[;], *except that such oils may be stored in larger quantities in fire department approved tank trucks or other vehicles, pending deliveries, in outdoor spaces or within buildings complying with the zoning resolution and chapter 26 of the administrative code, when provided with the following minimum fire protection.*

(a) *In outdoor spaces—portable fire fighting appliances as the commissioner may direct.*

(b) *Within buildings—portable fire fighting appliances as the commissioner may direct, battery cut-off switches, and sprinkler protection as required by chapter 26 of the code, except that for existing buildings lawfully occupied as a garage prior to the effective date of local law 76 of 1968, sprinkler protection shall be provided for storage of over 45,000 gallons, and sprinkler protection, or smoke detection or thermostatic alarm system with connection to central office, shall be provided for storage of between 22,500 and 45,000 gallons, all in accord with sections C62-302.1 (a), C26-709.6 (a) and (b), article 17 and reference RS-17-3 of chapter 26 of the administrative code. For storage of less than 22,500 gallons—portable fire fighting appliances, as the commissioner may direct, shall be provided, in accord with section C26-709.6 (c) of chapter 26 of the administrative code. A permit shall be required for storage of product pending delivery except when such storage is on the site of, or in the immediate proximity of a bulk oil storage plant.*

§ 2. Section C26-302.1(a) of chapter 26 of the administrative code is hereby amended to read as follows

C26-302.1(a) **Typical material contents.** Acetylene gas and gases under pressure of 15 psi or more and in quantities greater than 2,500 cu. ft., including hydrogen, illuminating gas, natural gas, and all other gases subject to explosion; celluloid and celluloid products; *cotton batting; kerosene; fuel or other oils having a flash point under 200°F. (tag closed cup), except 550 gals. or less in one and two-family dwellings; refrigerating systems using high hazard refrigerants as defined in article 13, and except that in buildings lawfully occupied as garages prior to the effective date of local law 76 of 1968, the storage of tank trucks or other vehicles, approved by the fire commissioner for the transportation of products having a flash point of over 100°F. (tag open cup), and where the product contained in the cargo space of the vehicles is pending delivery, shall only be considered to constitute a high hazard occupancy when the product is stored in quantities greater than 45,000 gallons.*

§ 3. § C26-709.6 of sub-article of such chapter of such code is hereby amended to read as follows:

§ C26-709.6

(a) Sprinklers—Automatic sprinkler protection complying with the construction provisions of article 17 shall be provided as required for occupancy groups B-1 or B-2 respectively [.], *except that in existing buildings lawfully occupied as garages prior to the effective date of local law 76 for the year 1968, storage of 45,000 gallons or less of product having a flash point over 100°F. (tag open cup) in the cargo space of tank truck or other vehicles approved for such storage, by the fire commissioner, pending delivery, shall not be deemed to require sprinkler protection.*

(b) Smoke detection or thermostatic alarm with central office connection—A thermostatic alarm system or smoke detection system equipped with a central office connection complying with article 17 of this code and reference standard RS-17-3 of the appendix to this code may be provided in lieu of the sprinkler system required under preceding subsection in existing buildings lawfully occupied as garages prior to the effective date of local law 76 for the year 1968, when the storage of fuel oils or other products having a flash point over 100°F. (tag open cup) is 22,500 gallons or more but not exceeding 45,000 gallons in the cargo space of tank trucks or other vehicles approved for such storage, by the fire commissioner, pending delivery.

(c) Portable fire fighting appliances, as the fire commissioner may direct, shall be provided in existing buildings, lawfully occupied as garages, prior to the effective date of local law 76 for the year 1968, when the storage of fuel oils or other products, having a flash point over 100°F (tag open cup) in the cargo space of tank trucks or other vehicles approved for such storage, by the fire commissioner, pending delivery, is less than 22,500 gallons.

§ 4. Subdivision (c) of section C26-1703.1 of sub-article 1703.0 of such chapter of such code is hereby amended to read as follows:

(c) Buildings classified in storage occupancy group B-1 exceeding 1,000 square feet in floor area[;], *except as modified under section C26-709.6 (a) (b) and (c) of this code.*

§ 5. Subdivision (d) of section C26-1703.1 of sub-article of such chapter of such code is hereby amended to read as follows:

(d) Spaces classified in storage occupancy group B-1 exceeding 500 square feet in floor area[;], *except as modified under sections C26-709.6 (a) (b) (c) of this code.*

§ 6. Subdivision (e) of section C26-1703.1 of such sub-article of such chapter of such code is hereby amended to read as fololws:

(e) Spaces classified in storage occupancy group B-2 exceeding 5,000 square feet in floor areas [;], *except as modified under sections C26-709.6 (a) (b) and (c) of this code.*

§ 7. This local law shall take effect immediately.

Note—New matter in *italics;* old matter in brackets [ ] to be omitted.

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL S. SHARISON, LEON A. KATZ, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

In connection herewith His Honor the Mayor transmitted the following message of necessity:

The City of New York, Office of the Mayor, New York, N. Y. 10007.

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A LOCAL LAW to amend the administrative code of the city of New York in relation to safeguards for tank trucks or other vehicles with volatile inflammable oils or liquids, or fuel oils, or similar products in the cargo spaces of the vehicles.

Given under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three

JOHN V. LINDSAY, Mayor.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1232

Report of the Committee on Buildings, in Favor of Adopting, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Ramps.

The Committee on Buildings to which was referred on May 17, 1973 (Minutes, page 1013) the annexed local law respectfully

REPORTS:

The new Building Code, enacted by Local Law No. 76 of 1968, included a number of provisions directed toward eliminating architectural barriers to the handicapped. With respect to existing buildings the effective date of these provisions was December 6, 1969.

Under these provisions restrictions against projections beyond the street line virtually prohibit alterations to existing buildings to allow access to the buildings for the handicapped.

The addition of section C26-407.2 would permit ramps providing access to individuals in wheelchairs to project beyond the street line in buildings erected prior to December 6, 1969.

Accordingly, your committee recommends its adoptions.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to ramps.

Be it enacted by the Council as follows:

Section 1. Sections C26-407.2, C26-407.3, C26-407.4 and C26-407.5 of the administrative code of the city of New York, as added by local law no. seventy-six for the year nineteen hundred sixty-eight, are hereby renumbered to be sections C26-407.3, C26-407.4, C26-407.5 and C26-407.6, respectively, and such code is hereby amended by adding thereto a new section, to be section C26-407.2 to read as follows:

§ *C26-407.2* ***Ramps.****—When a building erected prior to December 6, 1969 is altered to provide access to individuals in wheelchairs, ramps constructed to provide such access may, with the approval of the commissioner, project beyond the street line for a distance of not more than 44 inches.*

§ 2. This local law shall take effect immediately.

Note—New matter in *italics,* old matter in brackets [ ] to be omitted.

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL SHARISON, LEON A. KATZ, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1254-A

Report of the Committee on Buildings, in Favor of Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Fees Payable to the Department of Buildings for Signs.

The Committee on Buildings to which was referred on June 14, 1973 (Minutes, page 1155) the annexed amended local law respectfully

REPORTS:

Subdivision 6.a of Section C26-32.0 provides the fees to be charged by the Department of Buildings for permits to erect, alter or remove signs and fees to maintain such signs.

The amendments proposed would change the fees to maintain signs from an annual basis to a flat fee based on the area of the sign. However, the fees for illuminated signs projecting beyond the street line would continue to be charged on an annual basis.

The fees for permits to erect, alter or install a sign computed the same as fees for building alterations would remain unchanged.

Local Law 45 of 1969, in amending the fees to be charged for signs introduced annual fees for ground and roof signs.

Previously only illuminated signs projecting beyond the building line were charged annual fees, because these signs were inspected at least once a year for proper anchoring, bracing and structural integrity, and because such signs utilized city property. Ground and roof signs are charged an installation fee and are not reinspected on a mandatory annual cycle.

Accordingly your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to fees payable to the department of buildings for signs.

Be it enacted by the Council as follows:

Section 1. Paragraph a of subdivision six of section C26-32.0 of the administrative code of the city of New York as last amended by local law number twenty-nine for the year nineteen hundred seventy, is hereby amended to read as follows:

6. Signs.—a. The fees for permits to erect, install *or* alter [or remove] signs shall be computed in the same manner as the computation of fees for building alterations as provided in subdivision two of this section. In addition, [annual] fees shall be payable to the department [for the following] *as follows:*

(1) For ground signs $3 for each 100 square feet or fraction thereof, but not less than $15.

(2) For roof signs having a tight, closed or solid surface, $10 for each 100 square feet or fraction thereof, but not less than $20.

(3) For roof signs that do not have a tight, closed or solid surface, $10 for each 100 square feet or fraction thereof, when such signs extend to a height of not more than 31 feet above roof level, but not less than $30. When such signs exceed 31 feet above the roof level, $15 for each 100 square feet or fraction thereof, but not less than $50.

(4) For illuminated signs projecting beyond street line having 30 square feet or less, $16.50 *annually.*

(5) For illuminated signs projecting beyond street line having more than 30 square feet but not more than 50 square feet, $22 *annually.*

(6) For illuminated signs projecting beyond street line and having more than 50 square feet, 45 cents per square foot or part thereof *annually.*

§ 2. This local law shall take effect immediately.

Note—New matter in *italics,* old matter in brackets [ ] to be omitted.

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL S. SHARISON, LEON A. KATZ, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

In connection herewith His Honor the Mayor transmitted the following message of necessity.

The City of New York, Office of the Mayor, New York, N. Y. 10007.

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A LOCAL LAW—To amend the administrative code of the city of New York, in relation to fees payable to the department of buildings for signs.

Given under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three.

JOHN V. LINDSAY, Mayor.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1282-A

Report of the Committee on Buildings, in Favor of Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Clarifying and Correcting Provisions Relating to the Powers and Duties of the Department of Buildings and the Health Services Administration.

The Committee on Buildings, to which was referred on July 10, 1973 (Minutes, page 72) the annexed amended local law respectfully

REPORTS:

§ P113.0 of Reference Standard RS-16 would be repealed and substituted in its place would be the latest criteria for individual sewage systems established by the Health Services Administration.

The Health Services Administration, pursuant to the Health Code regulates the installation of individual sewage disposal systems and has recently modified their design criteria and site requirements. In the interest of assuring the smooth functioning of the related agency division in the Housing and Development Administration, the Health Services Administration had indicated its intent to discontinue approval of the plans and installation but wishes to review percolation tests and sites in the interest of public health.

The proposed legislation would upgrade the design standards for individual sewage systems presently in Reference Standard RS-16 to agree with those of the Health Services Administration.

Accordingly your committee recommends its adoption as amended.

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL S. SHARISON, RUDOLPH F. DiBLASI, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

In connection herewith His Honor the Mayor transmitted the following message of necessity:

The City of New York, Office of the Mayor, New York, N. Y. 10007.

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A LOCAL LAW—To amend the administrative code of the city of New York, in relation to clarifying and correcting provisions relating to the powers and duties of the department of buildings and the health services administration.

Given under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three.

JOHN V. LINDSAY, Mayor.

On motion of the Vice-Chairman (Mr. Cuite,), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1375

Report of the Committee on Buildings, in Favor of Adopting, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Ventilation of Public Halls.

The Committee on Buildings, to which was referred on November 15, 1973 (Minutes, page 591) the annexed local law respectfully

REPORTS:

Building Code ventilation requirements for corridors as provided in Section C26-1207.5 would be amended.

For occupancy classifications H-1, J-1 and J-2, more than three stories in height, an exhausting system capable of ½ cubic foot of air per minute per square foot of floor area may be installed in lieu of the mechanical ventilation system provided in this section.

Accordingly your committee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to ventilation of public halls.

Be it enacted by the Council as follows:

Section 1. Section C26-1207.5 of the administrative code of the city of New York, as added by local law number seventy-six of the year nineteen hundred sixty-eight, is hereby amended to read as follows:

§ C26-1207.5 **Corridors.**—Unless natural sources complying with section C26-1205.5 provides ventilating openings equivalent to at least 2½ per cent of the floor area, corridors in buildings of occupancy groups H-1, J-1 and J-2 more than three stories in height, shall be mechanically ventilated by a system supplying at least ½ cubic foot of outdoor air per minute per square foot of floor area *or a system exhausting at least ½ cubic foot of air per minute per square foot of floor area.* When air conditioned, a part of the required supply may be recirculated as equivalent outdoor air, but at least 33⅓ per cent of the required air supply shall be actual outdoor air.

§ 2. This local law shall take effect immediately.

Note—New matter in *italics.*

MICHAEL DeMARCO, Chairman; EDWARD V. CURRY, SAUL S. SHARISON, LEON A. KATZ, BARRY SALMAN, A. JOSEPH RIBUSTELLO, Committee on Buildings, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Reports of the Committee on Charter and Governmental Operations.

Int. No. 1401-A

Report of the Committee on Charter and Governmental Operations, in Favor of Adopting a Local Law to Amend the Charter of The City of New York, in Relation to the Compensation of the Mayor, the Comptroller, the President of the City Council and Borough Presidents.

The Committee on Charter and Governmental Operations, to which was referred on December 10, 1973 (Minutes, page 707) the annexed amended local law respectfully

REPORTS:

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the compensation of the mayor, the comptroller, the president of the city council and borough presidents.

Be it enacted by the Council as follows:

Section 1. Section four of chapter 1 of the charter of the city of New York is hereby amended to read as follows:

§ 4. The mayor shall be elected at the general election in the year nineteen hundred sixty-five and every four years thereafter. He shall hold office for a term of four years commencing on the first day of January after his election. The salary of the mayor shall be [fifty] *sixty* thousand dollars a year.

Section 2. Section twenty five of chapter 2 of the charter of the city of New York, is hereby amended to read as follows:

§ 25. *a.* The salary of the president of the council shall be [forty] *fifty* thousand dollars a year. *b.* The salary of each councilman shall be twenty thousand dollars a year.

Section 3. Section eighty-one subdivision c of chapter 4 of the charter of the city of New York is hereby amended to read as follows:

c. His salary shall be [thirty-five] *forty-five* thousand dollars a year.

Section 4. Section ninety-one of chapter 5 of the charter of the city of New York is hereby amended to read as follows:

§ 91. The comptroller shall be elected by the electors of the city at the same time and for the same term as in this charter prescribed for the mayor. His salary shall be [forty] *fifty* thousand dollars a year.

§ 6. This local law shall take effect January 1, 1974.

Note—New matter in *italics*, old matter in brackets [ ] to be omitted.

EDWARD L. SADOWSKY, Chairman; DAVID B. FRIEDLAND, MONROE COHEN, CARTER BURDEN, ANTHONY R. GAETA, FREDERICK W. RICHMOND, STANLEY SIMON, KENNETH HABER, Committee on Charter and Governmental Operations, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was made a General Order for the day and adopted and at the request of Mr. Sadowsky was laid aside for discussion. (See ROLL CALL ON ITEMS LAID ASIDE.)

Exhibit U

Reports of the Committee on Finance.

M-1003

Report of the Committee on Finance, in Favor of Concurring in a Communication From the Bureau of the Budget—Transmitting Amendment of Itemized Lump Sum Breakdown for Project P-470 (Street and Park Tree Planting, All Boroughs), Under the Terms and Conditions of the 1973-1974 Capital Budget.

The Committee on Finance, to which was referred on November 15, 1973 (Minutes, page 557) the annexed amended communication respectfully

REPORTS:

The 1973-1974 Capital Budget authorized a total of $1,500,000(d) for Projects P-470X, P-470K, P-470M, P-470Q and P-470R. These funds were required for the planting of street trees in all boroughs. The (d) designation indicated that the required design and supervisory services required would be funded from Capital Project RC-1.

On July 10, 1973, The Council approved the schedules itemizing the lump sums as submitted.

On August 3, and 29, 1973, the Deputy Administrator for Planning and Capital Development of Parks, Recreation and Cultural Affairs Administration, proposed an amendment to the 1973-1974 Capital Budget to provide $4,682,320 additional for the above mentioned projects in order to plant 4,202 additional street trees, 15,000 parkway trees and 9,900 park trees (deciduous and evergreen). These additional funds are to be provided by a Capital Budget amendment.

By boroughs the following table compares the 1973-1974 Capital Budget allocations with the allocations of the proposed amendments.

Project	Borough	1973-1974 Capital Budget	Totals as Amended	Increase by Amendment
P-470X	Bronx	$340,000(d)	$1,396,880(d)	$1,056,880
P-470K	Brooklyn	395,000(d)	1,218,840(d)	823 840
P-470M	Manhattan	345,000(d)	937,000(d)	592,000
P-470Q	Queens	345,000(d)	1,838,200(d)	1,493,200
P-470R	Richmond	75,000(d)	791,400(d)	716,400
	Total	$1,500,000(d)	$6,182,320(d)	$4,682,320

The following table reflects by boroughs the itemizations of the lump sums as approved by the Council on July 10, 1973, with the proposed revised schedules:

BRONX

	July 10, 1973 Schedule		Revised Schedule	
Itemization	No of Trees	Amount	No. of Trees	Amount
Street Trees	1,730	$320,000	2,773	$486,880
Shrubs in Public Places	—	20,000	—	20,000
Parkway Trees	—	—	2,500	250 000
Park Trees	—	—	3,200	640,000
Total		$340,000		$1,396,880

BROOKLYN

	July 10, 1973 Schedule		Revised Schedule	
Itemization	No of Trees	Amount	No. of Trees	Amount
Street Trees	2,000	$370,000	3,399	$593,840
Shrubs in Public places	—	25,000	—	25,000
Parkway Trees	—	—	3,000	300,000
Park Trees	—	—	1,000	300,000
Total		$395,000		$1,218,840

Exhibit U

MANHATTAN

Itemization	July 10, 1973 Schedule No of Trees	Amount	Revised Schedule No. of Trees	Amount
Street Trees	1,730	$320,000	2,180	$392,000
Shrubs in public places	—	25,000	—	25,000
Parkway Trees	—	—	500	50,000
Park Trees	—	—	1,500	470,000
Total		$345,000		$937,000

QUEENS

Itemization	July 10, 1973 Schedule No of Trees	Amount	Revised Schedule No. of Trees	Amount
Street Trees	1,730	$320,000	2,875	$503,200
Shrubs in public places	—	25,000	—	25,000
Parkway Trees	—	—	6,000	600,000
Park Trees	—	—	2,500	710,000
Total		$345,000		$1,838,200

RICHMOND

Itemization	July 10, 1973 Schedule No of Trees	Amount	Revised Schedule No. of Trees	Amount
Street Trees	325	$60,000	490	$86,400
Shrubs in public places	—	15,000	—	15,000
Parkway Trees	—	—	3,000	300,000
Park Trees	—	—	1,700	390,000
Total		$75,000		$791,400

Accordingly, we recommend thaat the Council approve the recommendation contained in the Communication from the Mayor.

To the Board of Estimate, the City Council:

Gentlemen—Heretofore, certain lump sum projects in the 1973-1974 Capital Budget have been approved in regard to the itemizations contained in these lump sum projects.

A Capital Budget amendment has been advanced for Project P-470 augmenting the budgeted amounts for each of the five borough line projects to increase amounts appropriated as follows:

Project	Increased From	To
P-470X	$340,000 00(d)	$1,396,880 00(d)
P-470K	395,000 00(d)	1,218,840 00(d)
P-470M	345,000 00(d)	937,000 00(d)
P-470Q	345,000 00(d)	1,838,200 00(d)
P-470R	75,000 00 d)	791,400 00(d)

Since all prior funds will be shortly encumbered under the first phase of an expanded street tree planting program, it will be necessary to amend the appropriations under Capital Projects P-470 (X, K, M, Q, R) in the 1973-1974 Capital Budget to implement the second stage of the program which will provide for the planting of 4,202 additional street trees, 15,000 parkway trees and 9,900 park trees. In addition, it will be necessary to change the descriptive title of each project, to reflect the planting of trees in parks and along parkways as well as in City streets.

The increased funding will necessitate changes in the itemized breakdowns heretofore approved. Attached hereto are the revised itemizations to be approved.

Respectfully, DAVID A, GROSSMAN, Director of the Budget.

1973-1974 CAPITAL BUDGET
DEPARTMENT OF PARKS

Project No. P-470X—Street Tree and Park Tree Planting, including Urban Greenery, The Bronx.

Planting 2,773 trees along City streets	$486,880 00
Planting shrubs in public places	20,000 00
Planting 2,500 parkway trees	250,000 00
Planting 3,200 park trees	640,000 00
	$1,396,880 00

The 1973-1974 allocation is $1,396,880. All prior balances have been expended.

For each of the individually listed items, in the event of awards or bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

Project No. P-470K—Street Tree and Park Tree Planting, including Urban Greenery, Brooklyn

Planting 3,399 trees along City streets	$593,840 00
Planting shrubs in public places	25,000 00
Planting 3,000 parkway trees	300,000 00
Planting 1,000 park trees	300,000 00
	$1,218,840 00

The 1973-1974 allocation is $1,218,840. All prior balances have been expended.

For each of the individually listed items, in the event of awards of bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

Project No. P-470M—Street Tree and Park Tree Planting, including Urban Greenery, Manhattan

Planting 2,180 trees along City streets	$392,000 00
Planting shrubs in public places	25,000 00
Planting 500 parkway trees	50,000 00
Planting 1,500 park trees	470,000 00
	$937,000 00

The 1973-1974 allocation is $937,000. All prior balances have been expended.

For each of the individually listed items, in the event of awards of bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

Project No. P-470Q—Street Tree and Park Tree Planting, including Urban Greenery, Queens.

Planting 2,875 trees along City streets	$503,200 00
Planting shrubs in public places	25,000 00
Planting 6,000 parkway trees	600,000 00
Planting 2,500 park trees	710,000 00
	$1,838,20000

The 1973-1974 allocation is $1,838,200. All prior balances have been expended.

For each of the individually listed items, in the event of awards of bids in excess of the indicated amounts, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

Project No. P-470R—Street Tree and Park Tree Planting, Including Urban Greenery, Richmond.

Planting 490 trees in City streets	$86,400 00
Planting shrubs in public places	15,000 00
Planting 3,000 parkway trees	300,000 00

Planting 1,700 park trees	390,000 00
	$791,400 00

The 1973-1974 allocation is $791,400. All prior balances have been expended.

For each of the individually listed items, in the event of awards of bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

Referred to the Committee on Finance.

MATTHEW J. TROY, JR., Chairman; EDWARD V. CURRY, EDWARD L. SADOWSKY, MONROE COHEN, CARTER BURDEN, HOWARD GOLDEN, ROBERT I. POSTEL, KENNETH HABER, A. JOSEPH RIBUSTELLO, Committee on Finance, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

In connection herewith Mr. Troy offered the following resolution to carry out the intent of the Mayor's communication:

Res. No. 1309

Resolution Approving Revised Itemizations of Lump Sum in the 1973-1974 Capital Budget Under the Jurisdiction of Department of Parks.

By Mr. Troy—

Resolved, That the Council, in accordance with the terms and conditions of the 1973-1974 Capital Budget, approves the following revised schedules itemizing lump sums in substitution for itemizations previously approved by The Council on July 10, 1973.

1973-1974 CAPITAL BUDGET
DEPARTMENT OF PARKS

Project	Description	Amount
P-470X	Street Tree and Park Tree Planting, including Urban Greenery, The Bronx.	
	Planting 2,773 trees along City streets	$486,880
	Planting shrubs in public places	20,000
	Planting 2,500 parkway trees	250,000
	Planting 3,200 park trees	640,000
		$1,396,880

The 1973-1974 allocation is $1,396,880. All prior balances have been expended.

For each of the individually listed items, in the event of awards or bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

1973-1974 CAPITAL BUDGET
DEPARTMENT OF PARKS

Project	Description	Amount
P-470K	Street Tree and Park Tree Planting, including Urban Greenery, Brooklyn.	
	Planting 3,399 trees along City streets	$593,840
	Planting shrubs in public places	25,000
	Planting 3,000 parkway trees	300,000
	Planting 1,000 park trees	300,000
		$1,218,840

The 1973-1974 allocation is $1,218,840. All prior balances have been expended.

For each of the individually listed items, in the event of awards or bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

Exhibit U

1973-1974 CAPITAL BUDGET
DEPARTMENT OF PARKS

Project	Description	Amount
P-470M	Street Tree and Park Tree Planting, including Urban Greenery, Manhattan.	
	Planting 2,180 trees along City Streets	$392,000
	Planting shrubs in public places	25,000
	Planting 500 parkway trees	50,000
	Planting 1,500 park trees	470,000
		$937,000

The 1973-1974 allocation is $937,000. All prior balances have been expended.

For each of the individually listed items, in the event of awards or bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

1973-1974 CAPITAL BUDGET
DEPARTMENT OF PARKS

Project	Description	Amount
P-470Q	Street Tree and Park Tree Planting, including Urban Greenery, Queens	
	Planting 2,875 trees along City streets	$503,200
	Planting shrubs in public places	25,000
	Planting 6,000 parkway trees	600,000
	Planting 2,500 park trees	710,000
		$1,838,200

The 1973-1974 allocation is $1,838,200. All prior balances have been expended.

For each of the individually listed items, in the event of awards or bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

1973-1974 CAPITAL BUDGET
DEPARTMENT OF PARKS

Project	Description	Amount
P-470R	Street Tree and Park Tree Planting, Including Urban Greenery, Richmond.	
	Planting 490 trees in City streets	$86,400
	Planting shrubs in public places	15,000
	Planting 3,000 parkway trees	300,000
	Planting 1,700 park trees	390,000
		$791,400

The 1973-1974 allocation is $791,400. All prior balances have been expended.

For each of the individually listed items, in the event of awards or bids in excess of the indicated amount, the agency may advance the work but with the proviso that the aggregate amount for this entire lump sum project as listed may not be exceeded by more than 15 per cent.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

M-1008 & M-1014

Report of the Committee on Finance, in Favor of Concurring in a Communication From the Mayor—Approving Amendment of the 1973-1974 Capital Budget, to Add a New Line 853c, Project HW-214, Reconstruction of Fort Hamilton Parkway From East 5th Street to 78th Street, in the Amount of $450,000.

The Committee on Finance, to which was referred on December 10, 1973 (Minutes, page 675, 685) the annexed communication respectfully

REPORTS:

On August 14, 1973, the Transportation Administration forwarded a request to the City Planning Commission and the Mayor for an amendment to the 1973-1974 Capital Budget as indicated above. The City Planning Commission on November 28, 1973, approved the amendment by 5 affirmative and no dissenting votes in accordance with Section 224a of the City Charter, and the Secretary of the Commission, by letter dated November 29, 1973, notified The Council of the Commission's action. On November 30, 1973, pursuant to Section 224a of the City Charter, the Mayor gave written notice to The Council of his approval of the proposed amendment. Accordingly, the amendment is properly before The Council.

Fort Hamilton Parkway is a major northeast-southwest thoroughfare in the southwest section of Brooklyn. It carries heavy traffic to and from the Verrazano Bridge. The Department of Highways reports that sections of the Parkway are in need or reconstruction.

Design funds for Project HW-214, Reconstruction of Fort Hamilton Parkway from East 5th Street to 78th Street, were appropriated in the 1972-1973 Capital Budget. No funds for construction of this project, estimated to cost $1,773,895, have since been provided.

A new line for Project HW-214 was requested in this amendment to provide $450,000, for reconstruction of a portion of Fort Hamilton Parkway between McDonald Ave., and East 37th St.

The Department of Highways has expedited design, etc. for the reconstruction of the above portion of the Parkway to coordinate it with a new sewer project scheduled for completion in January, 1974.

The sewer project, SE-203, provides for combined relief sewers in Fort Hamilton Parkway from Dahil Road to 37th St. Construction funds are included in the 1973-1974 Capital Budget for this sewer.

The work proposed for reconstruction consists of widening the roadway from 40 feet to 50 feet, to correspond to the width of the adjoining portions of the Parkway; reconstruction of about 3,000 linear feet of roadway (3 inches of wearing surface on 6 inches of concrete base); installation of steel-faced concrete curb lines; relocations and adjustments as may be necessary to existing traffic, fire and police facilities, etc.

The above and other related work which will be coordinated with construction of Project HW-214, such as the sewer, sidewalks, new traffic signal items, etc., will be charged to their appropriate Capital Budget projects. Estimate of cost is as follows:

Reconstruction of Fort Hamilton Parkway from McDonald Ave., to 37th St.	$420,000
Allowance for contingencies	20,000
Allowance for escalation	10,000
Total Cost of this portion of Project HW-214	$450,000

Accordingly, we recommend that the Council approve the recommendation contained in the Communication from the Mayor.

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1973-1974 Capital Budget under the Transportation Administration, as follows:

DEPARTMENT OF HIGHWAYS
BOROUGH OF BROOKLYN

Line	Project	Title	
853c	HW-214	Reconstruction of Fort Hamilton Parkway from East 5th Street to 78th Street	$450,000 00

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours, JOHN V. LINDSAY, Mayor.

September 17, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—On August 14, 1973, the Acting Administrator of the Transportation Administration requested amendment to the 1973-1974 Capital Budget by adding a new line for Project HW-214, to provide an amount of $500,000, subsequently reduced to $450,000, for reconstruction of a portion of Fort Hamilton Parkway between McDonald Avenue and 37th Street, Borough of Brooklyn.

Fort Hamilton Parkway is a major northeast-southwest thoroughfare in the Sunset Park, Borough Park and Bay Ridge sections of Brooklyn. It carries traffic between Prospect Parkway and Gowanus Expressway, where it terminates not distant from the Verrazano Bridge.

Heretofore, provision for design of Project HW-214, Reconstruction of Fort Hamilton Parkway from East 5th Street to 78th Street (about 14,700 feet in length) was made

in the 1972-1973 Capital Budget. The estimate cost of Project HW-214 is $1,773,895. No funds have been provided heretofore for construction of this project.

A representative of the Department of Highways states that the Department of Water Resources has advised that the plans, etc., for Project SE-203, Combined Relief Sewers in Fort Hamilton Parkway from Dahill Road to 37th Street, Etc. have been advanced to the stage that will enable a contract for the sewer project to be awarded in January 1974, construction to commence shortly thereafter. The 1973-1974 Capital Budget provides $720,000 SEC (d) for construction of Project SE-203.

In order to effectuate a saving in time the Department of Highways has expedited design, etc., by its own forces for the reconstruction of a portion of Fort Hamilton Parkway between McDonald Avenue and East 37th Street, coincidental with the above proposed sewer, enabling coordination of construction of Project SE-203 and the corresponding portion of Project HW-214.

The work proposed for reconstruction of the above portion of Fort Hamilton Parkway consists of widening the roadway from 40 feet to 50 feet, to correspond to the width of the adjoining portions of the Parkway; reconstruction of about 3,000 linear feet of roadway (3 inches of wearing course on 6 inches of concrete base); installation of steel-faced concrete curb lines; relocation and adjustments, as may be necessary, to existing traffic, fire and police facilities, etc. The above and other related work which will be coordinated with construction of Project HW-214, such as the sewer sidewalks, new traffic signal items, etc., will be charged to their appropriate Capital Budget projects.

Advancement to construction of Project HW-214, from McDonald Avenue to 37th Street, will require funds as follows:

Estimate of cost of reconstruction of Fort Hamilton Parkway from McDonald Avenue to 37th Street	$420,000 00
Allowance for possible contingencies	20,000 00
Allowance for possible escalation	10,000 00
Total Cost of this portion of Project HW-214	$450,000 00

The required City funds are within the Debt Limit and may be advanced from City reserves since it appears that no existing Highway Projects can be deleted or deferred.

In order to provide the amount $450,000 for the above portion of Project HW-214, the following amendment to the 1973-1974 Capital Budget is required.

BOROUGH OF BROOKLYN

Title	Total Estimated Cost	1973-1974 CAPITAL BUDGET From	To
Line 853c, Project HW-214-Reconstruction of Fort Hamilton Parkway, from East 5th Street to 78th Street	$1,773,895 00	.....	$450,000 00

In view of the foregoing, approval is recommended of amendment of the 1973-1974 Capital Budget with respect to Capital Project HW-214 as indicated above.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

MATTHEW J. TROY, JR., Chairman; EDWARD V. CURRY, EDWARD L. SADOWSKY, WALTER WARD, MONROE COHEN, CARTER BURDEN, HOWARD GOLDEN, ROBERT I. POSTEL, KENNETH HABER, A. JOSEPH RIBUSTELLO, Committee on Finance, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

In connection herewith Mr. Troy offered the following resolution to carry out the intent of the Mayor's communication:

Res. No. 1310

Resolution Approving Amendment to the 1973-1974 Capital Budget Under the Transportation Administration.

By Mr. Troy—

Resolved, That The Council, pursuant to the provisions of Section 224 of the City Charter, approves the following amendment to the 1973-1974 Capital Budget affecting the Transportation Administration.

Add: New Line 853c, Project HW-214, Reconstruction of Fort Hamilton Parkway, from East 5th Street to 78th Street, in the Amount of $450,000.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a

General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

M-1010 & M-1016

Report of the Committee on Finance, in Favor of Concurring in a Communication From the Mayor—Approving Amendment of the 1973-1974 Capital Budget, to Change the Title of Project P-470 in All the Individual Borough Lines From Street Tree Planting, Including Urban Greenery, to Street Tree and Park Tree Planting, Including Urban Greenery, and Add an Additional $4,682,320 to the Budget by Increasing the Borough Lines as Follows:

Line 669, Project P-470X, From $340,000(d) to $1,396,880(d).
Line 687, Project P-470K, From $395,000(d) to $1,218,840(d).
Line 703, Project P-470M, From $345,000(d) to $937,000(d).
Line 719, Project P-470Q, From $345,000(d) to $1,838,200(d).
Line 731, Project P-470R, From $75,000(d) to $791,400(d).

The Committee on Finance to which was referred on December 10, 1973 (Minutes, page) the annexed communication respectfully

REPORTS:

On August 3, and August 29, 1973, the Deputy Administrator for Planning and Capital Development of the Parks, Recreation and Cultural Affairs Administration forwarded a request to the City Planning Commission and the Mayor for an amendment to the 1973-1974 Capital Budget as indicated above. The City Planning Commission on November 29, 1973, approved the amendment by 5 affirmative and no dissenting votes in accordance with Section 224a of the City Charter, and the Secretary of the Commission, by letter dated November 29, 1973, notified The Council of the Commission's action. On November 30, 1973, pursuant to Section 224a of the City Charter, the Mayor gave written notice to The Council of his approval of the proposed amendment. Accordingly, the amendment is properly before The Council.

The Department of Parks is currently embarked on an expanded tree planting program in an effort to beautify the City's streets, parks and parkways, improve air quality, prevent soil erosion, dampen noises, etc. The program is to be accomplished under two phases wherein about 21,000 trees will be planted throughout the City by mid-December 1973 under Phase 1 and about 29,000 trees planted under Phase 2 by the Spring of 1974, including evergreen and deciduous (maples, gnikos, London planes, honey locuses and various other) trees.

Funds for the first phase have already been provided under the respective Borough lines of Project P-470 in the 1972-1973 and 1973-1974 Capital Budget supplemented by funds provided by the utilization of Section 225 of the New York City Charter which increased prior appropriations under Project P-470 and P-470 (X, K, M, Q, R) by not more than 15 per cent to finance the planting contracts.

The Department of Parks, now proposes to implement the second phase of the program which will provide for the planting of 4,202 additional street trees, 15,000 parkway trees and 9,900 park trees (deciduous and evergreen).

Since all prior funds will be encumbered under the first phase, it will be necessary to amend the appropriations under Capital Projects P-470 (X, K, M, Q, R) in the 1973-1974 Capital Budget. In addition, it will be necessary to change the descriptive title of each project, since it is now proposed to plant trees in parks and along parkways as well as on City streets. The required funding for the proposed amendment is as follows:

Borough	Parkway Trees (Evergreen)	Park Trees Deciduous (5"—6")	Street Trees (Evergreen)	Street Trees Deciduous (2½"—3")	Totals
Bronx					
Number	2,500	800	2,400	1,043	6,743
Cost	$250,000	$400,000	$240,000	$166,880	$1,056,880
Brooklyn					
Number	3,000	500	500	1,399	5,399
Cost	$300,000	$250,000	$50,000	$223,840	$ 823,840
Manhattan					
Number	500	800	700	450	2,450
Cost	$50,000	$400,000	$70,000	$72,000	$592,000
Queens					
Number	6,000	1,150	1,350	1,145	9,645
Cost	$600,000	$575,000	$135,000	$183,200	$1,493,200

Exhibit U

Borough	Parkway Trees (Evergreen)	Park Trees Deciduous (5"—6")	Park Trees (Evergreen)	Street Trees Deciduous (2½"—3")	Totals
Richmond					
Number	3,000	550	1,150	165	4,865
Cost	$300,000	$275,000	$115,000	$26,400	$716,400

Total number of trees, 29,102

Total Cost $4,682,320

Funding: In view of the fact that there are no Department of Parks projects that can be deferred to provide compensating funds, the additional funds would be taken from the unencumbered debt margin.

Accordingly, we recommend that the Council approve the recommendation contained in the Communication from the Mayor.

November 28, 1973.

City Council, City Hall, New York, N. Y. 10007:

Gentlemen—I hereby approve proposed amendment to the 1973-1974 Capital Budget under the Parks, Recreational & Cultural Affairs, as follows:

Change the title of Project P-470 in all Borough Lines from Street Tree Planting, including Urban Greenery, to "Street Tree and Park Tree Planting, including Urban Greenery," and increase the individual Borough Lines as follows:

1. Line 669, Project P-470X, from $340,000(d) to $1,396,880(d).
2. Line 687, Project P-470K, from $395,000(d) to $1,218,840(d).
3. Line 703, Project P-470M, from $345,000(d) to $937,000(d).
4. Line 719, Project P-470Q, from $345,000(d) to $1,838,200(d).
5. Line 731, Project P-470R, from $75,000(d) to $791,400(d).

Attached hereto are reports of the City Planning Commission and the Budget Directors Office.

Very truly yours,

JOHN V. LINDSAY, Mayor.

October 4, 1973.

Hon. JOHN V. LINDSAY, *Mayor, the Board of Estimate, the City Council:*

Gentlemen—On August 3 and August 29, 1973, the Deputy Administrator for Planning and Capital Development of the Parks, Recreation and Cultural Affairs Administration requested approval of amendments to Capital Projects P-470 X, K, M, Q and R of the 1973-1974 Capital Budget (which relate to the planting of street trees in all boroughs) by providing an additonal aggregate amount of $4,682,320 and also changing the title of each of said projects.

The requested Capital Budget Amendments in relation to the amounts appropriated in the 1973-1974 Capital Budget are as follows:

Project	Borough	1973-1974 Capital Budget Appropriation	Additional Requested Funds by Amendment
P-470 X	Bronx	$340,000 00(d)	$1,056,880 00
P-470 K	Brooklyn	395,000 00(d)	823,840 00
P-470 M	Manhattan	345,000 00(d)	592,000 00
P-470 Q	Queens	345,000 00(d)	1,493,200 00
P-470 R	Richmond	75,000 00(d)	716,400 00
	Total	$1,500,000 00(d)	$4,682,320 00(d)

The (d) designation indicates that the required design and supervisory services required will be funded from Capital Project RC-1.

The Department of Parks is currently embarked on an expanded tree planting program in an effort to beautify the City's streets, parks and parkways, improve air quality, prevent soil erosion, dampen noises, etc. The program is to be accomplished under two phases wherein about 21,000 trees will be planted throughout the City by mid-December 1973 under Phase I and about 29,000 trees planted under Phase II by the Spring of 1974.

Funds for the first phase have already been provided under the respective Borough lines of Project P-470 in the 1972-1973 and 1973-1974 Capital Budgets supplemented by funds provided by the fullest utilization of Section 225 of the New York City Charter which increased prior appropriations under Project P-470 and P-470 (X, K, M, Q, R) by not more than 15 per cent to finance the planting contracts.

The Department of Parks, now proposes to implement the second stage of the program

which will provide for the planting of 4,202 additional street trees, 15,000 parkway trees and 9,900 park trees (deciduous and evergreen). The proposed program per borough is as follows:

Borough	Parkway Trees (Evergreen)	Park Trees Deciduous (5 inch-6 inch Caliper)	Park Trees Evergreen	Street Trees (2½ inchs-3 inches Caliper)	Totals
Bronx—					
Number	2,500	800	2,400	1,043	6,743
Est. Cost	$250,000	$400,000	$240,000	$166,880	$1,056,880
Brooklyn—					
Number	3,000	500	500	1,399	5,399
Est. Cost	$300,000	$250,000	$50,000	$233,840	$823,840
Manhattan—					
Number	500	800	700	450	2,450
Est. Cost	$50,000	$400,000	$70,000	$72,000	$592,000
Queens—					
Number	6,000	1,150	1,350	1,145	9,645
Est. Cost	$600,000	$575,000	$135,000	$183,200	$1,493,200
Richmond—					
Number	3,000	500	1,150	165	4,865
Est. Cost	$300,000	$275,000	$115,000	$26,400	$716,400

Since all prior funds will be encumbered under the first phase, it will be necessary to amend the appropriations under Capital Projects P-470 (X, K, M, O, R) in the 1973-1974 Capital Budget. In addition, it will be necessary to change the descriptive title of each project, since it is now proposed to plant trees in parks and along parkways as well as in City streets. The revised title and required funding for the proposed amendment is as follows:

1973-1974 Capital Budget

Line	Project	Revised Title	Total Estimated Cost	1973-1974 Capital Budget
669	P-470X	Street Tree and Park Tree Planting, including Urban Greenery, The Bronx. This project shal not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	$568,017 00	$340,000 00(d)
		Substitute	1,624,897 00	1,396,880 00(d)
687	P-470K	Street Tree and Park Tree Planting, including Urban Greenery, Brooklyn. This project shall not be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	628,486 00	395,000 00(d)
		Substitute	1,452,326 00	1,218,840 00(d)
703	P-470M	Street Tree and Park Tree Planting, including Urban Greenery, Manhattan. This project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of		

Line	Project	Description	Total Estimated Cost	1973-1974 Capital Budget
		the lump sum provided shall have been approved by the Council and the Board of Estimate		
		Eliminate	211,778 00	345,000 00(d)
		Substitute	1,148,778 00	937,000 00(d)
719	P-470Q	Street Tree and Park Tree Planting, including Urban Greenery, Queens. This project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	621,353 00	345,000 00(d)
		Substitute	2,114,553 00	1,838,200 00(d)
713	P-470R	Street Tree and Park Tree Planting, including Urban Greenery, Richmond. This project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by the Council and the Board of Estimate.		
		Eliminate	148,330 00	75,000 00(d)
		Substitute	864,730 00	791,400 00(d)

The lump sum schedules for these projects under the 1973-1974 Capital Budget itemizing the above will be provided for the approval of the Board of Estimate and the City Council as required.

In view of the fact that there are no Department of Parks projects that can be deferred to provide compensating funds, the additional funds must be financed from the Existing City reserves.

In view of the foregoing, approval of the aforementioned amendments to the 1973-1974 Capital Budget is recommended.

Respectfully, DAVID A. GROSSMAN, Director of the Budget.

MATTHEW J. TROY, JR., Chairman; EDWARD V. CURRY, EDWARD L. SADOWSKY, WALTER WARD, MONROE COHEN, CARTER BURDEN, HOWARD GOLDEN, ROBERT I. POSTEL, KENNETH HABER, A. JOSEPH RIBUSTELLO, Committee on Finance, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

In connection herewith Mr. Troy offered the following resolution to carry out the intent of the Mayor's communication:

Res. No. 1311

Resolution Approving an Amendment to the 1973-1974 Capital Budget Affecting the Department of Parks.

By Mr. Troy—

Resolved, That the Council pursuant to the provisions of Section 224 of the City Charter, approves the following amendments of the 1973-1974 Capital Budget affecting the Department of Parks:

1973-1974 Capital Budget

Line	Project	Change Title to Read
669	P-470X	Street Tree and Park Tree Planting, including Urban Greenery, The Bronx. This project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the

3058a
Exhibit U

Line	Project	Change Title to Read
		lump sum provided shall have been approved by The Council and the Board of Estimate. Eliminate $340,000(d), Substitute $1,396,880(d).
687	P-470K	Street Tree and Park Tree Planting, including Urban Greenery, Brooklyn. This project shall not be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by The Council and the Board of Estimate. Eliminate $395,000(d), Substitute $1,218,840(d).
703	P-470M	Street Tree and Park Tree Planting, including Urban Greenery, Manhattan. This project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by The Council and the Board of Estimate. Eliminate $345,000(d), Substitute $937,000(d).
719	P-470Q	Street Tree and Park Tree Planting, including Urban Greenery, Queens. This project shall not be effective or be deemed included, in whole or in part, unless a schedule setting forth the itemization of the lump sum provided shall have been approved by The Council and the Board of Estimate. Eliminate $345,000(d), Substitute $1,838,200(d)
731	P-470R	Street Tree and Park Tree Planting, including Urban Greenery, Richmond. This project shall not be effective or be deemed included, in whole or in part unless a schedule setting forth the itemization of the lump sum provided shall have been approved by The Council and the Board of Estimate. Eliminate $75,000(d), Substitute $791,400(d).

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

M-1011

Report of the Committee on Finance, in Favor of Concurring in a Communication From the Mayor—Requesting the Enactment of a Resolution Transferring $270,000 to the City Council for Relocation of the Offices of Councilmen and Auxiliary Staff.

The Committee on Finance, to which was referred on December 10, 1973 (Minutes, page 680) the annexed communication respectfully

REPORTS:

A Public Hearing in connection with this matter was held this day. No one appeared in opposition.

Thereafter, we discussed and considered the purposes of the proposed amendment in Committee.

By letter dated December 6, 1973, the Mayor, in accordance with Section 124c of the New York City Charter, requested approval by The Council of a modification of the 1973-1974 Expense Budget to transfer $270,000 from Code 098-009, Fund for Salary and Wage Accruals, to The Council for the relocation of Councilmen and staff as indicated above.

The Vice Chairman and Majority Leader of The Council, in a letter to the Mayor, dated December 3, 1973, requested a modification of the 1973-1974 Expense Budget to provide additional funds in the amount of $270,000, as follows:

Miscellaneous equipment, desks, chairs, typewriters and other furnishings..	$169,530
Moving expenses	30,470
Rent at $280,000 per annum for three months	70,000
	$270,000

The move is required to provide adequate offices for an increased number of Councilmen and to provide a single consolidated office area for Councilmen and staff.

On December 6, 1973, the Board of Estimate adopted a resolution; recommended by the Commissioner of Real Estate, authorizing a lease of approximately 32,968 square feet—the entire 22d and 23d floors, and approximately half of the 24th floor—in the building at 250 Broadway, Manhattan, to be used by The Council for a term of ten years from the date of occupancy, at a rental at the rate of $280,228 per annum.

To the Board of Estimate and the City Council:

Gentlemen—The City Council, in a communication dated December 3, 1973 requested modification of their 1973-1974 Budget in order to provide additional funds in the amount of $270,000 required for furniture, equipment, moving expenses and rent in conjunction with the relocation of the offices of Councilmen and ancillary staff from their present locations to 250 Broadway, New York City.

New legislation, effective January 1, 1974, increased the number of Councilmen from thirty-seven to forty-three. In addition, six Councilmanic Aides positions were provided for in the current budget. The present quarters of the City Council do not provide adequate space for the existing Councilmen and the increase in Councilmen makes the need for additional space more compelling.

The new move which is scheduled for April 1, 1974 will provide adequate space for the increased number of Councilmen and provide a single consolidated office area for Councilmen and ancillary staff. The Department of Real Estate evaluated the space requirements to meet the needs of the Council and determined 32,968 square feet as necessary. Total rental per annum is $280,228.

In order to effectuate the move, it is necessary to provide additional funds in the amount of $270,000 as follows:

Miscellaneous equipment, desks, chairs, typewriters and other furnishings	$169,530 00
Moving expenses	30,470 00
Rent at $280,000 per annum for three months	70,000 00
Total	$270,000 00

It is therefore recommended that $270,000 be transferred from Code 098-009 (Funds for Salary and Wage Accruals) to the City Council 1973-1974 Budget in order to approve the request.

Very truly yours, JOHN V. LINDSAY, Mayor.

Resolved, That the Board of Estimate and the City Council, pursuant to the provisions of Section 124C of the New York City Charter, hereby approves the transfer of funds within appropriations made for the fiscal year 1973-1974 effective

From
MISCELLANEOUS

Code 098-009 Fund for Salary and Wage Accruals	$270,000

To
THE CITY COUNCIL

Program I City Council		$270,000
Code 102-01-98		
Line 300	$169,530	
Line 400	30,470	
Line 703	70,000	
Total	$270,000	

MATTHEW J. TROY, JR., Chairman; EDWARD V. CURRY, EDWARD L. SADOWSKY, WALTER WARD, MONROE COHEN, CARTER BURDEN, HOWARD GOLDEN, ROBERT I. POSTEL, KENNETH HABER, A. JOSEPH RIBUSTELLO, Committee on Finance, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

In connection herewith Mr. Troy offered the following resolution to carry out the intent of the Mayor's communication:

Res. No. 1312

Resolution Approving Transfer of Funds for the Council.

By Mr. Troy—

Resolved, That the Council, pursuant to the provisions of Section 124c of the New York City Charter, approves the transfer of $270,000 from Code 098-009, Fund for Salary and Wage Accruals, to The Council as follows:

From Miscellaneous

Code 098-009 Fund for Salary and Wage Accruals		$270,000
To The City Council		
Program I City Council		$270,000
Code 102-01-98 Line 300	$169,530	
Line 400	30,470	
Line 703	70,000	
Total	$270,000	

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

M-1012

Report of the Committee on Finance, in Favor of Concurring in a Communication From the Mayor—Requesting the Enactment of a Resolution Transferring $22,604,-335 to the Department of Probation.

The Committee on Finance, to which was referred on December 10, 1973 (Minutes, page 680) the annexed communication respectfully

REPORTS:

A Public Hearing in connection with this matter was held this day. No one appeared in opposition.

Thereafter, we discussed and considered the purposes of the proposed amendment in Committee.

The Mayor, in accordance with Section 124c of the New York City Charter, by letter dated December 7, 1973, requested approval of a modification of the 1973-1974 Expense Budget to transfer $22,604,335 to the Department of Probation as indicated above.

Under Chapter 603 of the Laws of 1973, there was established a Department of Probation in and for The City of New York, which would be responsible for all probation work in the Supreme, Family and Criminal Courts in the counties of Bronx, Kings, New York, Queens and Richmond. The effective date of this law is February 1, 1974.

The law transfers the functions, powers, duties and all officers and employees of the Office of Probation and the Probation System of the Supreme Court to the Department of Probation, and requires that such personnel be continued in office during their respective terms of office and retain their rights under the Civil Service Law.

In addition the law provides that The City of New York make the necessary transfers of all appropriations of the Office of Probation and the Supreme Court Probation System to the Department of Probation.

The enacted legislation repealed Sections 225 and 225a of the Executive Law, and added a new Section 225 of such law to establish a unified Department of Probation for The City of New York. The Department is to be headed by a single Director of Probation, appointed by and responsible to the Mayor. The Director has the power to transfer personnel and appoint assistants, and is responsible for the various functions of the Department.

At present there are separate offices of probation in each of the boroughs of New York City. This decentralization, according to the Mayor's memorandum in support of the legislation, results in duplicate administration, uneven caseloads, uneven utilization of personnel and diffused responsibility.

The enacted legislation would provide flexibility in New York City's probation system and should result in a more economical administration of probation services.

Accordingly, we recommend that the Council approve the recommendation contained in the Communication from the Mayor.

To the Board of Estimate and City Council:

Gentlemen—Chapter 603 of the Laws of New York for 1973 provides for merging the Office of Probation with the Probation Departments of the Supreme Courts into a new Department of Probation. The new department will be responsible for all probation work in the Supreme, Family and Criminal Courts in the Counties of Bronx, Kings, New York, Queens and Richmond and is to take effect on February 1, 1974.

The law transfers the functions, powers and duties of the Office of Probation and the Probation System of the Supreme Courts to the Department of Probation and requires that provision be made for the transfer of all officers and employees of the Office of Probation and the Probation System of Supreme Court to the Department of Probation and that such personnel shall continue in office during their respective tenures of office and shall retain their rights under the Civil Service Law. The law further provides that The City of New York made the necessary transfers of all appropriations of the Office of Probation and the Supreme Court Probation System to the Department of Probation.

It is therefore recommended that funds in the amount of $14,945,467 appropriated to the Office of Probation and $7,658,868 appropriated to the Supreme Court Probation System making an aggregate total of $22,604,335 be transferred to the Department of Probation by the adoption of the attached resolution.

Very truly yours,

JOHN V. LINDSAY, Mayor

Resolved, That the Board of Estimate and the City Council, pursuant to the provisions of Section 124C of the New York City Charter, hereby approves the transfer of funds within appropriations made for the fiscal year 1973-1974 effective February 1, 1974.

From
OFFICE OF PROBATION

Program I Executive Management—	
Personal Service	$902,684
Other Than Personal Service	123,963
Total	$1,026,647
Program II Probation Services—	
Personal Service	$10,736,981
Other Than Personal Service	1,570,041
Total	$12,307,022
Program III Court Accounting and Collection Services—	
Personal Service	$824,430
Other Than Personal Service	187,200
Total	$1,011,630
Program IV Alternatives to Secure Detention—	
Personal Service	$416,455
Other Than Personal Service	177,877
Total	$594,332
Program VI Employee Salary and Wage Adjustment—	
Total	$5,836
Total—Office of Probation	$14,945,467
Tax Levy	$6,931,299
State Funds	7,147,201
Federal Funds	563,867
Capital Funds	303,100

SUPREME COURT, FIRST JUDICIAL DISTRICT
AND APPELLATE DIVISION, FIRST DEPARTMENT

Program V Probation Services—	
Personal Service	$2,773,340
Other Than Personal Service	182,630
Total—Supreme Court 1st Judicial District	$2,955,970
Tax Levy	$1,477,986
State Funds	1,477,984

SUPREME COURT, SECOND JUDICIAL DISTRICT
KINGS COUNTY

Program III—Probation Services—	
Personal Service	$3,044,710
Other Than Personal Service	153,802
Total—Supreme Court 2d Judicial District	$3,198,512
Tax Levy	$1,638,892
State Funds	1,531,100
Federal Funds	28,520

SUPREME COURT, ELEVENTH JUDICIAL DISTRICT
AND SUPREME COURT LIBRARY, QUEENS COUNTY

Program III Probation Services—	
Personal Service	$1,317,636
Other Than Personal Service	103,925
Total—Supreme Court 11th Judicial District	$1,421,561

Tax Levy	$710,780
State Funds	710,781

SUPREME COURT, SECOND JUDICIAL DISTRICT
RICHMOND COUNTY

Program III Probation Services—	
Personal Service	$79,425
Other Than Personal Service	3,400
Total—Supreme Court 2d Judicial District Richmond County	$82,825
Tax Levy	$41,412
State Funds	41,413

To
DEPARTMENT OF PROBATION

Program I Executive Management—	
Personal Service	$992,791
Other Than Personal Service	123,963
Total	$1,116,754
Program II Probation Services—	
Personal Service	$17,861,985
Other Than Personal Service	2,013,798
Total	$19,875,783
Program III Court Accounting and Collection Services—	
Personal Service	$824,430
Other Than Personal Service	187,200
Total	$1,011,630
Program IV Alternatives to Secure Detention—	
Personal Service	$416,455
Other Than Personal Service	177,877
Total	$594,332
Program VI Employee Salary and Wage Adjustment—	
Total	$5,836
Total—Department of Probation—	
Personal Service	$20,101,497
Other Than Personal Service	2,502,838
Total	$22,604,335
Tax Levy	$10,800,369
State Funds	10,908,479
Federal Funds	592,387
Capital Funds	303,100

MATTHEW J. TROY, JR., Chairman; EDWARD V. CURRY, EDWARD L. SADOWSKY, WALTER WARD, MONROE COHEN, CARTER BURDEN, HOWARD GOLDEN, ROBERT I. POSTEL, KENNETH HABER, A. JOSEPH RIBUSTELLO, Committee on Finance, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

In connection herewith Mr. Troy offered the following resolution to carry out the intent of the Mayor's communication:

Exhibit U

Res. No. 1313

Resolution Approving Transfer of Funds Within Appropriations Made for the Fiscal Year 1973-1974, Effective February 1, 1974.

By Mr. Troy—

Resolved, That pursuant to the provisions of Section 124c of the New York City Charter The Council approves the transfer of $14,945,467 appropriated to the Office of Probation, and $7,658,868 appropriated to the Supreme Court Probation System, making an aggregate total of $22,604,335, to the Department of Probation as follows:

	From
Office of Probation	
Program I—Executive Management	
Personal Service	$902,684
Other Than Personal Service	123,963
Total	$1,026,647
Program II—Probation Services	
Personal Service	$10,736,981
Other Than Personal Service	1,570,041
Total	$12,307,022
Program III—Court Accounting and Collection Services	
Personal Service	$824,430
Other Than Personal Service	187,200
Total	$1,011,630
Program IV—Alternatives to Secure Detention	
Personal Service	$416,455
Other Than Personal Service	177,877
Total	$594,332
Program VI—Employee Salary and Wage Adjustment	
Total	$5,836
Total—Office of Probation	$14,945,467
Tax Levy	$6,931,295
State Funds	7,147,201
Federal Funds	563,867
Capital Funds	303,100
Supreme Court, First Judicial District and Appellate Division, First Department	
Program V—Probation Services	
Personal Service	$2,773,340
Other Than Personal Service	182,630
Total—Supreme Court 1st Judicial District	$2,955,970
Tax Levy	$1,477,986
State Funds	1,477,984
Supreme Court, Second Judicial District Kings County	
Program III—Probation Services	
Personal Service	$3,044,710
Other Than Personal Service	153,802
Total—Supreme Court 2d Judicial District	$3,198,512
Tax Levy	$1,638,892
State Funds	1,531,100
Federal Funds	28,520

Supreme Court, Eleventh Judicial District
and Supreme Court Library, Queens County

Program III—Probation Services	
Personal Service	$1,317,636
Other Than Personal Service	103,925
Total—Supreme Court 11th Judicial District	$1,421,561
Tax Levy	$710,780
State Funds	710,781

Supreme Court, Second Judicial District
Richmond County

Program III—Probation Services	
Personal Service	$79,425
Other Than Personal Service	3,400
Total—Supreme Court 2nd Judicial District Richmond County	$82,825
Tax Levy	$41,412
State Funds	41,413

To
Department of Probation

Program I—Executive Management	
Personal Service	$992,791
Other Than Personal Service	123,963
Total	$1,116,754
Program II—Probation Services	
Personal Service	$17,861,985
Other Than Personal Service	2,013,798
Total	$19,875,783
Program III—Court Accounting and Collection Services	
Personal Service	$824,430
Other Than Personal Service	187,200
Total	$1,011,630
Program IV—Alternatives to Secure Detention	
Personal Service	$416,455
Other Than Personal Service	177,877
Total	$594,332
Program VI—Employee Salary and Wage Adjustment	
Total	$5,836
Total—Department of Probation	
Personal Service	$20,101,497
Other Than Personal Service	2,502,838
Total	$22,604,335
Tax Levy	$10,800,369
State Funds	10,908,479
Federal Funds	592,387
Capital Funds	303,100

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Exhibit U

Reports of the Committee on Parks, Recreation and Cultural Affairs.

Int. No. 952

Report of the Committee on Parks, Recreation and Cultural Affairs in Favor of Adopting a Local Law to Amend the Administrative Code of The City of New York, in Relation to Park Name, Harry Maze Memorial Park, Borough of Brooklyn.

The Committee on Parks, Recreation and Cultural Affairs, to which was referred on September 12, 1972 (Minutes, page 1158) the annexed local law respectfully

REPORTS:

This proposed local law would amend the administrative code by naming an area in East Flatbush bounded on the east by East 56th Street on the south by Avenue D, on the west by East 57th Street and set back on the north in an irregular manner approximately 200 feet south of Claredon Road.

Harry Maze was born on December 25, 1902. He died on August 20, 1971, a resident of 5518 Clarendon Road. He was active in civic, community and fraternal organizations. His public life began as a school teacher. He was thereafter successively an assistant district attorney of Kings County, an assistant Deputy Comptroller of New York City, Secretary to a Supreme Court Justice and a member of the City Council from 1966 to 1969. He was a sincere and dedicated public servant.

Accordingly, your committee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to park name, Harry Maze memorial park, borough of Brooklyn.

Be it enacted by the Council as follows:

Section 1. Section B4-20.0 of the administrative code of the city of New York is hereby amended by adding thereto a new designation to read as follows:

§B4-20.0 **Brooklyn: change certain park name.**—The following park name is hereby designated as hereinafter indicated:

New name	Present name	Limits
Harry Maze memorial park	none	An area bounded on the east by East 56th street, on the south by Avenue D, on the west by East 57th street and set back on the north in an irregular manner approximately 200 feet south of Clarendon road.

§ 2. This local law shall take effect immediately.

BARRY SALMAN, Chairman; WALTER WARD, WILLIAM C. THOMPSON, ROBERT I. POSTEL, MORTON POVMAN, ANTHONY R. GAETA, FRANK J. BIONDOLILLO, Committee on Parks, Recreation and Cultural Affairs, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1342-A

Report of the Committee on Parks, Recreation and Cultural Affairs, in Favor of Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to an Area Name, "Police Plaza," Borough of Manhattan.

The Committee on Parks, Recreation and Cultural Affairs to which was referred on September 25, 1973 (Minutes, page 318), the annexed amended local law respectfully

REPORTS:

This proposed law would amend the administrative code by naming an unnamed parcel of land that begins at the northeast corner of Cardinal Hayes Place, running to the northeast corner of the Municipal Building, to the southeast corner of the Municipal Building, in a southeasterly line along the Avenue of the Finest to Madison Street northeasterly on Madison Street to Pearl Street to Park Row, westerly on Park Row to Duane Street, northwesterly along Duane Street to the place of beginning, in the Borough of Manhattan.

This area is adjacent to the new police headquarters.

Accordingly, your committee recommends its adoption as amended.

BARRY SALMAN, Chairman; WALTER WARD, ROBERT I. POSTEL,

THEODORE SILVERMAN, MORTON POVMAN, ANTHONY R. GAETA, FRANK J. BIONDOLILLO, Committee on Parks, Recreation and Cultural Affairs, December 20, 1973.

In connection herewith His Honor the Mayor has transmitted the following message of necessity.

The City of New York, Office of the Mayor, New York, N. Y. 10007.

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A LOCAL LAW to amend the administrative code of the city of New York, in relation to an area name, "Police plaza," borough of Manhattan.

Given under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three.

JOHN V. LINDSAY, Mayor.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 1346

Report of the Committee on Parks, Recreation and Cultural Affairs, in Favor of Adopting, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Park Name, Henry A. Whalen Park, Borough of The Bronx.

The Committee on Parks, Recreation and Cultural Affairs, to which was referred on September 25, 1973 (Minutes, page 330) the annexed local law respectfully

REPORTS:

This proposed law would amend the administrative code by naming an unnamed park, adjacent to the Mosholu Branch Library, at the intersection of Perry Avenue and 206th Street, Bronx, Henry A. Whalen Park.

Mr. Henry Whalen, who recently passed away, was a most active and respected member of the Norwood area of the Bronx, whose record of civic and community interest and accomplishments is enviable. In addition he had a most impressive military history, having participated in eight separate campaigns during World War II, receiving many citations and awards, and his continued work with servicemen and veterans for years thereafter is widely known. He worked hard and long for a new Veterans Administration hospital in the Bronx and although his efforts were realized, with the appropriation of funds, unfortunately he did not live to see the structure built. He received awards from various veteran, religious and civic groups as well as from the State Legislature and, most recently, a distinguished Certificate of Appreciation from the Mayor.

Accordingly your committee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to park name, Henry A. Whalen park, borough of The Bronx.

Be it enacted by the Council as follows:

Section 1. Section B-4-10.0 of the administrative code of the city of New York is hereby amended by adding thereto a new designation to read as follows:

§ B4-10. **Bronx: Change certain park name.**—The following park name is hereby designated as hereafter indicated:

New name	Present name	Limits
Henry A. Whalen park	none	An irregularly shaped parcel forming the northwest corner of the intersection of 205th street and Perry avenue.

§ 2. This local law shall take effect immediately.

BARRY SALMAN, Chairman; WALTER WARD, ROBERT I. POSTEL, MORTON POVMAN, ANTHONY R. GAETA, FRANK J. BIONDOLILLO, Committee on Parks, Recreation and Cultural Affairs, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Exhibit U

Int. No. 1349

Report of the Committee on Parks, Receation and Cultural Affairs in Favor of Adopting, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Street Name, Kings Plaza, Borough of Brooklyn.

The Committee on Parks, Recreation and Cultural Affairs, to which was referred on October 4, 1973 (Minutes, page 422) the annexed local law respectfully

REPORTS:

This proposed law would amend the administrative code by naming an unnamed street located at the intersection of Flatbush Avenue and Avenue U, in the Borough of Brooklyn, as Kings Plaza.

Accordingly, your committee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to street name, Kings plaza, borough of Brooklyn.

Be it enacted by the Council as follows:

Section 1. Section B4-70.0 of the administrative code of the city of New York is hereby amended by adding thereto a new designation to read as follows:

§ B4-70.0 **Brooklyn: change certain street name.** The following street is hereby designated as hereinafter indicated:

New name	Present name	Limits
Kings plaza	None	The intersection of Flatbush avenue and Avenue U

§ 2. This local law shall take effect immediately.

BARRY SALMAN, Chairman; WALTER WARD, ROBERT I. POSTEL, MORTON POVMAN, ANTHONY R. GAETA, FRANK J. BIONDOLILLO, Committee on Parks, Recreation and Cultural Affairs, December 20, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Reports of the Committee on Public Safety

Int. No. 915-A

Report of the Committee on Public Safety, in Favor of Adopting, as Amended a Local Law to Amend the Administrative Code of The City of New York, in Relation to the Expiration Date and Fees for Firearms Licenses.

The Committee on Public Safety, to which was referred on September 12, 1972 (Minutes, page 1117) the annexed amended local law respectfully

REPORTS:

This bill amends the valid time period of pistol and revolver licenses, from one year to two years; adjusts the application fees.

This bill amends Section 436-5.0, Chapter 19 (Police Department), entitled: "Firearms;" said section concerns the application for and issuance and renewal of licenses for the carrying and possession of firearms, and the fees payable therefore.

The Effect of Proposed Amendments:

1. Pistol and revolver licenses will be valid for a two-year period or part thereof, rather than the present one year or part thereof. Licenses renewed and validation of special licenses will be valid for a two-year period, rather than the present one year period.
2. Fees for all applications will be raised proportionately with the valid time period.
3. Provides that when a pistol or special validation is issued for a period of more than one year, an additional fee of five dollars shall be paid for each three month period exceeding one year.

Presently fees for original applications, renewal applications and validation of special licenses are not refundable, if the application is denied.

Accordingly your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the expiration date and fees for firearms licenses.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0 of the administrative code of the city of

New York, as last amended by local law number thirty-eight for the year nineteen hundred sixty-four, is hereby amended to read as follows:

Firearms:

a. Pistols or revolvers, keeping or carrying.

1. The commissioners shall grant and issue licenses [and permits] hereunder pursuant to the provisions of [section eighteen hundred ninety-six and nineteen hundred three] *article four hundred* of the penal law [, which licenses and permits shall expire on December thirty-first of the year of issuance]. *Unless they indicate otherwise, such licenses and permits shall expire on the first day of the second January after the date of issuance.*

2. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefore, a fee of thirty dollars for each original application for the license period or part thereof, a fee of twenty dollars for each renewal application, and a fee of ten dollars for each replacement application of a lost license. A fee of ten dollars shall be paid for each renewal license that is issued for a period of one year or part thereof.

[3. Every applicant for a license to have and carry concealed a pistol or revolver in the city shall pay therefore a fee of twenty dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten dollars.]

[4.] *3.* Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph [six] [*seven*] *five* of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of [twenty] *thirty* dollars [for each year or part thereof and], for each renewal [or for replacement of a lost permit] a fee of [ten] *twenty* dollars, *and for each replacement of a lost permit a fee of ten dollars.*

[*4. Whenever a pistol permit or special validation is issued for a period of more than one year, an additional fee of five dollars shall be paid for each three month period exceeding one year.*]

[*5. A license applying for permission to acquire an additional pistol or revolver, other than as a replacement gun, shall pay a fee of ten dollars for each additional weapon.*]

4. Fees paid as provided herein shall not be refunded in the event that an original or renewal application, or a special validation permit application is denied by the commissioner.

[6.] [7] A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

6. [7] [*8*] The fees prescribed by this [subsection] subdivision shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect as of January 1, 1974.

Note—New matter in *italics*, old matter in brackets [ ] to be omitted.

MONROE COHEN, Chairman; EDWARD V. CURRY, WALTER WARD, CARTER BURDEN, ROBERT I. POSTEL, THEODORE SILVERMAN, BARRY SALMAN, FRANK J. BIONDOLILLO, Committee on Public Safety, December 20, 1973.

In connection herewith His Honor the Mayor transmitted the following message of necessity.

The City of New York, Office of the Mayor, New York, N. Y. 10007.

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the expiration date and fees for firearms licenses.

Give under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three.

JOHN V. LINDSAY, Mayor.

On motion of the Vice-Chairman (Mr. Cuite) the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Exhibit U

Reports of the Committee on Standard and Ethics

Int. No. 1305-A

Report of the Committee on Standards and Ethics, in Favor of Adopting as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to the Regulation of Lobbying and to Repeal Section Two of Local Law Seventy-nine of Nineteen Hundred Seventy-two.

The Committtee on Standards and Ethics to which was referred on July 19, 1973 (Minutes, page 157) the annexed local law respectfully

REPORTS:

This proposed law would amend title N of section 51 of the administrative code, the lobbying law which was enacted into law in 1972 as Local Law No. 79, but never enforced because it was felt in certain quarters that it was too vague. A series of proposals to clarify and correct technical and substantive deficiencies in the law was prepared by the Corporation Counsel.

One of the main objections to the law was the definition of "Legislation" which was deemed too broad and would include the practice of law by attorneys working in the field of administrative law who appear before public officers in behalf of a client. A partial exemption for certain attorneys representing charitable foundations has been repealed and the world "Municipal" has been added before the world "Legislation" to limit the application of the law.

Several other changes are incorporated in the proposed bill which are intended to make it enforceable, regarding the filing of reports, registration procedures and bringing penalties in line with State Law.

Mr. Troy is to be added as a co-sponsor on this bill.

Accordingly your Commitee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the regulation of lobbying and to repeal section two of local law seventy-nine of nineteen hundred seventy-two.

Be it enacted by the Council as follows:

Section 1. Title N of chapter fifty-one of the administrative code of the city of New York as added by local law seventy-nine of nineteen hundred seventy-two is hereby amended to read as follows:

§ N51-1.0. **Definitions.**—Whenever used in this [article] *title*, the following words and phrases shall be construed as defined in this section:

[(a)] *a.* The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value [whether made directly or indirectly] for the purpose of attempting to influence action on municipal legislation, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

[(b)] *b.* The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value [whether made directly or indirectly] for the purpose of attempting to influence action on legislation and includes a contract, promise, or agreement whether or not legally enforceable, to make an expenditure.

[(c)] *c.* The term "*municipal* legislation" means bills, resolutions, motions, appeals, applications, petitions, nominations [ordinances], amendments and other matters pending or proposed before the city council or any of its committees, or any officer or employee of the city charged by law with the duty of conducting a hearing and making a decision as to the matter pending or proposed. Legislation shall also include any matter which, after action upon it by the city council, is required under the provisions of any law to be submitted to the Mayor for further action.

[(d)] *d.* The term "quarterly" or "quarter" or "calendar quarter" means the annual calendar quarters of the year, namely, the time periods encompassed by January 1—March 31, April 1—June 30, July 1—September 30 and October 1—December 31, respectively.

[(e)] *e.* The term "public official as used in [subsection (c)] *subdivision c.* of section N51-2.0 shall include an elected or appointed officer or employee or officially designated representative, whether compensated or not by the United States or any of its agencies, the State of New York, any political subdivision of the State, including cities, counties, districts or any public corporation, agency or commission.

§ N51-2.0. **Registration as municipal legislative advocate.**—[(a)] *a.* Except as provided in [subsection (c)] *subdivision c.* of this section, any [individual] person who shall engage himself for pay or for any consideration whether that pay or other consideration is paid specifically for the activity regulated by this article or includes other activity as well, and including reimbursement for expenses incurred, for the purpose of attempting to influence the action on municipal legislation [by the city council, any of its committees

or any officer or employee of the city charged by law with the duty of conducting a hearing and making a decision thereon, including the approval or veto or other action by the mayor upon municipal legislation,] shall before doing anything in furtherance of such [object] *purpose*, register with the city clerk as a municipal legislative advocate. At the time of registering he shall file with the city clerk, in writing, his name and his business and residence addresses, the name and address of the person in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is paid for expenses, and what expenses are to be included. He shall also, at the time of registering, submit to the city clerk a written authorization from each person by whom he is employed to act in furtherance of such [object in] *purpose*. *In* order to maintain an active registration such person shall re-register between the first and last day of the month in which his registration expires and at that time shall again submit the information and authorization required by this [subsection (a)] *subdivision*. The city clerk shall issue a registration card to each person who qualifies for registration indicating thereon the registration expiration date. The expiration date shall be one year after the last day of the calendar quarter in which a registration card is issued.

[(b)] *b*. Each such person so registering shall, between the first and [15th] *fifteenth* day of each calendar quarter, so long as his registration continues, file with the city clerk a detailed report of (1) all money received by him during the preceding quarter as compensation for the employment described in [subsection (a)] *subdivision a of this section;* provided, however, that a person who is regularly employed, and as an incidental and casual part of that employment without increase in salary or other compensation engages in activity requiring registration under this article shall not be required to report the amount of salary or other compensation received for his regular employment; (2) each expenditure of $25 or more during the preceding quarter in carrying on his work in such employment, to whom paid, for what purposes, and the total of all expenditures incurred during the preceding quarter in such employment; (3) the names of any papers, periodicals, magazines or other publications in which he has caused to be published during the preceding quarter any articles or editorials designed or intended to influence directly or indirectly any municipal legislation; and (4) the proposed legislation he is or was employed to support or oppose. A person whose employment for the purpose of attempting to influence municipal legislation has ceased may notify the city clerk of that fact and, upon reporting the information required by [clauses (1), (2) and (3), above] *the preceding paragraphs of this subdivision* occurring since his last quarterly statement, or since the commencement of his employment, whichever is applicable, shall be relieved of the obligation of making future reports required by this [article] *title* until his employment for the purpose of attempting to influence *municipal* legislation shall commence again.

[(c)] *c*. The provisions of this section shall not apply:

1. To a public official acting in his official capacity.

2. To a person who merely appears before the city council or any of its committees, or at a hearing before any officer or employee of the city charged by law with the duty of conducting [such] a hearing and making a decision as to the matter pending or proposed.

[2.] *3*. To any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials or other comments or paid advertisements, which directly or indirectly urge action upon municipal legislation, if such newspaper, periodical, radio or television station or individual engages in no further or other activities in connection with action upon such municipal legislation[:] *other than to appear as provided for in paragraph two of this subdivision*;

[3. To a person invited by the vice-chairman of the city council or chairman of any of its standing or special committee, before whom the matter is pending or by any officer or employee of the city charged by law with the duty of conducting a hearing and making a decision as to pending or proposed matter or by the mayor as to any municipal legislation pending before him for the purpose of giving testimony in aid of the body or person extending the invitation:]

[4. To any person appearing with respect to municipal legislation pursuant to a procedure established by State or Federal law, or pursuant to any procedure established by ordinance for levying an assessment against real property for the construction or maintenance of an improvement;]

[5.] *4*. To a person who, without compensation and not as part of or in the ordinary course of his regular employment, appears to present the position of organizations such as a taxpayers association, a chamber of commerce, a labor organization, a merchants association or trade association when that association or organization has [one or more of its officers, employees or representatives] already registered under the provisions of this article.

[6. To any organization exempt from taxation pursuant to section 501(c)(3),

of the internal revenue code, as the same may be hereafter renumbered or amended, or any future provision by federal law dealing with the same subject matter, and any officer, employee or attorney representing any such organization.]

[(d)] *d.* The city clerk shall issue a notice [of] *that* registration *is* required upon the written request of the council, the mayor, or any officer or employee of the city charged by law with conducting a hearing and making a decision on a matter pending or proposed. Any person who in good faith and on reasonable grounds believes that he is not required to comply with the provision of [subsection (a)] *subdivision a. of this section* by reason of his being exempt under [sub-section (c)] *subdivision c.*, shall not be deemed to have violated the provisions of [subsection (a)] *subdivision a.* if within 15 days after notice from the city clerk, he either complies or furnishes satisfactory evidence to the city [council] *clerk*, that he is exempt from registration.

[(e)] *e.* All information required to be filed under the provisions of this section shall be compiled by the city clerk as soon as practicable after the close of each quarter with respect to which such information is filed and shall be forwarded to the city council with a copy thereof to the mayor of the city of New York. All such information shall be preserved by the clerk for a period of five years from the date of filing, shall constitute part of the public records of his office and shall be open to public inspection.

§ N51-3.0. **Obligations of municipal legislative advocate.**—Any person who is required to register as a municipal legislative advocate under section N51-2.0 hereof has the following obligations [:] , *violation of which shall constitute cause for revocation or suspension of a certificate of registration by the city clerk but shall not, except for a violation of subdivision h of this section constitute a violation punishable under section N51-10.0 of this title.*

[(a)] *a.* Not to engage in any activity as a municipal legislative advocate unless he be registered under section N51-2.0 hereof, and not to accept compensation for acting as a municipal legislative advocate except under condition[s] that he forthwith register as a municipal legislative advocate.

[(b)] *b.* To abstain from doing any act, with the express purpose and intent of placing a member of the city council, the mayor or any officer or employee charged by law with conducting a hearing and making a decision on a matter pending or proposed, under personal obligation to her or his employer.

[(c)] *c.* Never to *knowingly* deceive or attempt to deceive a member of the city council, the mayor or any officer or employee charged by law with conducting a hearing and making a decision on a matter pending or proposed as to any material fact pertinent to any pending or proposed municipal legislation.

[(d)] *d.* Never to cause or influence the introduction of any [bill, resolution, appeal, application, petition, nomination or amendment thereof] *municipal legislation* for the purpose of thereafter being employed to secure its granting, denial, confirmation, rejection, passage or defeat.

[(e)] *e.* To abstain from any attempt to create a fictitious appearance of public favor or disfavor of any municipal legislative proposal or to cause any communication to be sent to a member of the city council, or the mayor, or any officer or employee charged by law with the duty of conducting a hearing and making a decision on a matter pending or proposed in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

[(f)] *f.* Not to represent, either directly or indirectly though word of mouth or otherwise, that he can control or obtain the vote or action of any member of the city council or any employee or officer of the city charged by law with the duty of conducting a hearing and making a decision on a matter pending or proposed or the approval or veto of any municipal legislation by the mayor of the city of New Yrk.

[(g)] *g.* Not to represent, or solicit representation of, an interest adverse to his employer nor to represent employers whose interest are known to him to be adverse.

[(h)] *h.* To retain all books, papers and documents necessary to substantiate the financial reports required to be made under this [article] *title* for a period of five years.

§ N51-4.0. **Employment of city council members or city employees.**—If any person registered or required to be registered under section N51-2.0 hereof employs or requests, recommends, or causes his employer to employ, and such employer does employ any member of the city council or any attache of the city council or any person known by him to be an officer or full-time employee of the city in any capacity whatsoever, he shall file, within ten days after such employment a statement with the city clerk, setting out the nature of the employment, the name of the person to be paid thereunder and the amount of pay or consideration to be paid thereunder, and the date of first pay or consideration to be paid thereunder, and the date first employed.

§ N51-5.0. **Employment of unregistered persons.**—It shall be unlawful for any person to pay a person for services rendered in influencing or attempting to influence the

action on any municipal legislation, including the approval or veto of any municipal legislation if said person, required to register under section N51-2.0, had not done so.

§ N51-6.0. **Solicitation, contribution and expenditure of funds relating to municipal legislation.**—[(a)] *a.* Except as provided in [subsection (d)] *subdivision d.* of this section, the provisions of this section shall apply to any person who by himself or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, receives or expends money or any thing of value to be used *principally* to aid, or a principal purpose of which person is to aid in influencing, directly or indirectly any action or inaction with respect to any municipal legislation by the city of New York.

[(b)] *b.* Every person to whom this section is applicable shall keep for at least five years a detailed and exact account of:

1. All contributions of any amount or any value whatsoever;
2. The name and address of every person making any such contribution of $100 or more and the date thereof;
3. All expenditures made by or on behalf of such organization or fund; and
4. The name and address of every person to whom any item of expenditure exceeding $25 is made, the date thereof and receipted bill for said expenditure.

[(c)] *c.* Every person to whom this section is applicable shall file with the city clerk between the first and the [15th] *fifteenth* day of each calendar quarter a statement containing the following information with respect to the preceding calendar quarter:

1. The name and address of each person who has made a contribution of $100 or more;
2. The total sum of the contributions made to or for such person;
3. The name and address of each person to whom an expenditure of the aggregate value of $25 or more has been made by or on behalf of such person, and the amount, date and purpose of such expenditure; and
4. The total sum of all expenditures made by or on behalf of such person.

[(d)] *d.* The provisions of this section shall not apply to any person excluded from the requirements of section N51-2.0 of this [article] *title* by [subsection (c)] *subdivision c.* thereof.

§ N51-7.0. **Filing must be [in person] under oath.**—Any person desiring to register as a municipal legislative advocate shall file in triplicate [and in person] under oath, with the city clerk on forms prescribed by the city clerk, the information required by [subsection (a)] *subdivision a.* of section N51-2.0 of this [article] *title*. The oath may be administered by the city clerk, any of his deputies or any other officer authorized by law to administer oaths. *A filing fee of $15 shall be payable to the city clerk.*

§ N51-8.0. **Filing and preservation of reports of receipts and expenditures.**—The detailed reports of money received and expenditures made required by this [article] *title* shall be filed under oath with the city clerk on forms prescribed by the city clerk and may be filed:

(a) In person, or

(b) Be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, and directed to the city clerk, but, in the event it is not received, three copies of such statement shall be promptly filed upon notice from the city clerk of its non-receipt.

All reports and statements required under this [article] *title* which are filed with the city clerk shall be preserved by him for a period of five years from the date of filing, shall constitute part of the public records of his office and shall be open to public inspection.

[§ N51-9.0] §N51-1.0. **Severability.**—If any section, subsection, subdivision, sentence, clause, phrase, or portion of this article or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article or its application to other persons. The city council hereby declares that it would have adopted this [article] *title*, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentences, clauses, phrases, or portions or the application thereof to any person, be declared invalid or unconstitutional.

[§ N51-10.0] § N51-11.0. **Violations.**—Any person [firm or corporation] who violates this [legal] law shall be guilty of a class [B] *A* misdemeanor punishable by a fine of not more than one [hundred] *thousand* dollars [($100,000)] ($1,000) or imprisonment for not more than [three (3) months] *one year* or both *such fine and imprisonment.*

§ 2. Section two of local law seventy-nine of the year nineteen hundred seventy-two is hereby amended to read as follows: Section 2. This local law shall take effect [immediately] *March first, nineteen hundred seventy-four.*

§ 3. This local shall take effect March first, nineteen hundred seventy-four.

Note—New matter in *italics*, old matter in brackets [ ] to be omitted.

THOMAS J. CUITE, SAUL S. SHARISON, EDWARD L. SADOWSKY, ANGELO J. ARCULEO, BARRY SALMAN, ELDON R. CLINGAN, Committee on Standards and Ethics, December 20, 1973.

In connection herewith His Honor the Mayor transmitted the following message of necessity:

The City of New York, Office of the Mayor, New York, N. Y. 10007.

Pursuant to authority vested in me by section twenty of the Municipal Home Rule Law and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law as amended entitled:

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of lobbying and to repeal section two of local law seventy-nine of nineteen hundred seventy-two.

Given under my hand and Seal this twentieth day of December, one thousand nine hundred and seventy-three.

JOHN V. LINDSAY, Mayor.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

GENERAL ORDER CALENDAR

G.O. No. 108—Int. No. 1265

Report of the Committee on Environmental Protection, in Favor of Adopting a Local Law to Amend the Administrative Code of The City of New York, in Relation to Permissible Noise Levels for Auto Horns.

The Committee on Environmental Protection to which was referred on April 30, 1973 (Minutes, page 1257), the annexed local law respectfully

REPORTS:

The allowable sound level standard for motor vehicles claxons (horns) under the Noise Control Code would be amended.

In Section 1403.3-5.17, the allowable sound level of the claxon when measured at 25 feet from the forward face of the motor vehicle would be increased from 75 to 108 db(a) (decibels on the A scale.) The provision permitting the Environmental Protection Administrator to establish allowable sound levels for the use of a city-country horn remains unchanged.

Accordingly your committee recommends its adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to permissible noise levels for auto horns.

Be it enacted by the Council as follows:

Section 1. Section 1403.3-5.17 of article V of part III of chapter 57 of the administrative code as enacted by local law no. 57 for the year 1972 is hereby amended to read as follows:

§ 1403.3-5.17 **Motor vehicle claxons.** No person shall sell, offer for sale, operate or permit to be operated a claxon installed on any motor vehicle of a model year 1974 and thereafter which when operated creates a sound level in excess of [75] *108* dB(A) when measured at a distance of twenty five feet from the center of the forward face of such motor vehicle, but this section shall not preclude the sale or use of a city-country horn in accordance with allowable sound levels promulgated by the administrator.

§ 2. This local law shall take effect immediately.

EDWARD V. CURRY, MICHAEL DeMARCO, HOWARD GOLDEN, LEON A. KATZ, EUGENE F. MASTROPIERI, MORTON POVMAN, A. JOSEPH RIBUSTELLO, Committee on Environmental Protection, October 2, 1973.

On motion of the Vice-Chairman (Mr. Cuite), the foregoing matter was made a General Order for the day and adopted, and at the request of Mr. Weiss was laid aside for discussion. (See ROLL CALL ON ITEMS LAID ASIDE.)

G.O. No. 113—Int. No. 1392-A

Report of the Committee on Finance, in Favor of Adopting as Amended a Local Law to Amend the Charter of The City of New York, in Relation to the Annual Filing Period for the Application For Partial Exemption From Real Property Taxation on Real Property Owned by Certain Persons With Limited Income Who Are Sixty-five Years or Over.

The Committee on Finance, to which was referred on November 15, 1973 (Minutes, page 604), the annexed amended local law, respectfully

REPORTS:

This local law would amend subdivisions 4 and 5 of Section 174.01 of Chapter 7 of the City Charter and change the period for filing for the old-age real estate tax exemptions from the present deadline of January 25th to the period between February 1st and March 15th of each year.

The present provisions of Section 174.01 were re-enacted by Local Law No. 3 of 1973 and provide for a partial exemption of 50 per cent on the assessed valuation of real estate for eligible owners 65 years of age or older whose income does not exceed $6,000 for the previous taxable year.

Subdivisions 4 and 5 of Section 174.01 presently require respectively that applications for exemption be filed on or before the appropriate taxable status date, (January 25th), and that notice be given to taxpayers previously granted exemptions, at least 60 days before January 25th, and that the succeeding years application must be filed on or before that date.

The proposed local law would change the time elements in subdivisions 4 and 5 by establishing a filing period from February 1st to March 15th, and by requiring that notice be given by the Finance Administration to taxpayers 60 days prior to February 1st for the March 15th deadline. To effect the latter provision, the words "on or before taxable status date" on line 13 of the bill should be deleted and there should be substituted the words "between the first day of February and the fifteenth day of March".

The period of February 1st to March 15th is common for filing for other permissable tax exemptions.

This local law would take effect immediately.

Accordingly your Committee recommends its adoption as amended.

A LOCAL LAW to amend the charter of the city of New York, in relation to the annual filing period for the application for partial exemption from real property taxation on real property owned by certain persons with limited income who are sixty-five years or over.

Be it enacted by the Council as follows:

Section 1. Subdivisions four and five of section 174.01 of chapter 7 of the charter of the city of New York as added by local law number three for the year nineteen hundred seventy-three, are hereby amended to read as follows:

4. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the state board to be furnished by the tax commission and shall furnish the information and must be executed in the manner required or prescribed in such form and shall be filed in the office of the tax commission in the borough in which the real property is located [on or before the appropriate taxable status date] *between the first day of February and the fifteenth day of March.*

5. At least sixty days prior to the [appropriate taxable status date] *first day of February,* the tax commission shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll [an] application form and a notice that such application must be filed [on or before taxable status dated] *between the first day of February and the fifteenth day of March* and be approved in order for the exemption to be granted. Failure to mail any such application form and notice or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

§ 2. This local law shall take effect immediately.

Note—New matter in *italics*; old matter in brackets [ ] to be omitted.

MATTHEW J. TROY, JR., Chairman; ARTHUR J. KATZMAN, EDWARD L. SADOWSKY, AILEEN B. RYAN, WALTER WARD, MONROE COHEN, CARTER BURDEN, HOWARD GOLDEN, KENNETH HABER, Committee on Finance, December 10, 1973.

On motion of the Vice-Chairman (Mr. Cuite) the foregoing matter was coupled as a General Order for the day and adopted. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Resolution Appointing Various Persons Commissioner of Deeds

By the President—

Resolved, That the following named persons be and they hereby are appointed Commissioner of Deeds for a term of two years commencing on January 1, 1974.

By Councilman Arculeo—Angelo F. Cella, 1156 69th Street, Brooklyn; Sadie Ventura, 2069 66th Street, Brooklyn.

By Councilman Biondolillo—Herman Oberstein, 29 Uxbridge Street, Richmond; Ann R. Persico, 17 Kenmore Street, Richmond.

By Councilman Burden—Lois Delgado, 221 East 106th Street, Manhattan; Helen L. Craw-

ford, 68 East 127th Street, Manhattan; Elizabeth I. Schiffer, 325 East 80th Street, Manhattan.

By Councilman Clingan—Leila White, 470 Lenox Avenue, Manhattan; Clara Gardner, 50 West 132d Street, Manhattan.

By Councilman Cohen—Saul Levine, 2233 East 63d Street, Brooklyn; Henry Richman, 390 Parkside Avenue, Brooklyn; Kenneth Frohlick, 2951 Ocean Avenue, Brooklyn; Joseph Bova, 1354 East 96th Street, Brooklyn.

By Councilman Cuite—Samuel Zar, 2121 Beekman Place, Brooklyn, Ruth Plotkin, 8735 Bay Parkway, Brooklyn; Leonard Taubenblatt, 9 Prospect Park West, Brooklyn.

By Councilman Curry—Emanuel Rosenfield, 214 Slosson Avenue, Richmond; Edward Lindenberger, 105 Willowbrook Road, Richmond; Adele Stattyn, 715 Armstrong Avenue, Richmond; Beatrice V. Peterson, 252 Bidwell Avenue, Richmond.

By Councilman DeMarco—Michael Miles, 1471 White Plains Road, Bronx; Rose B. Bavuso, 2458 Hoffman Street, Bronx.

By Councilman Friedland—William M. Wolfson, 27 West 72d Street, Manhattan; Frank O'Neill, 65 Post Avenue, Manhattan.

By Councilman Gaeta—Charles V. Franchini, 385 Adelaide Avenue, Richmond; Phyllis A. Franchini, 385 Adelaide Avenue, Richmond.

By Councilman Golden—Amleto C. Gori, 116 Bay Street, Brooklyn; William Pritchard, 2209 West 8th Street, Brooklyn; Isadore Levenar, 2069 85th Street, Brooklyn; Robert R. Jacobson, 5007 Surf Avenue, Brooklyn; Eleanore C. Rosenbach, 2052 81st Street, Brooklyn; Betty Goodhart, 5200 15th Avenue, Brooklyn.

By Councilman Greitzer—Henry K. Chapman, 1025 5th Avenue, Manhattan; Ruth Young, 1036 Park Avenue, Manhattan; Gabriel Lanzano, 12 Cornelia Street, Manhattan.

By Councilman Katz—Benjamin Haskell, 485 Ocean Avenue, Brooklyn; Alice Wesselhoft, 3815 Farragut Road, Brooklyn; Sidney Lewow, 603 East 4th Street, Brooklyn; Lawrence J. Coleman, 1310 Avenue R, Brooklyn; Charles R. Novick, 515 Avenue I, Brooklyn; Estelle Golub, 4190 Bedford Avenue, Brooklyn.

By Councilman Katzman—Evelyn Bobrowsky, 6260 Dieterle Crescent, Queens; Katharan Stattmiller, 7002 69th Street, Queens; Daniel Hirtenstein, 8515 Main Street, Queens; Charles W. Parker, 9940 63d Road, Queens; Benjamin Rubinfeld, 6384 Saunders Street, Queens; Sophie Marcus, 102-36 64th Avenue, Queens.

By Councilman Manton—Patrick M. Scalfaro, 4029 60th Street, Queens; Garrett C. McAuliffe, 5015 41st Street, Queens; Camille B. Sorrentino, 9709 Lefferts Boulevard, Queens; Sadie Peller, 4100 43d Avenue, Queens; Salvatore G. D'Amato, 1417 31st Road, Queens.

By Councilman Mastropieri—Charles A. Bauer, 506 Fairview Avenue, Queens.

By Councilman Mercorella—Wallace Karnell, 3565 Bruckner Boulevard, Bronx; Jean Daniels, 290 West 232d Street, Bronx; Milton Pushkin, 3400 Fort Independence Street, Bronx; Lillian Feder, 3530 Henry Hudson Parkway, Bronx; Julius Beldner, 254 East East 202d Street, Bronx; Mary A. Guadagno, 65 Poplar Avenue, Bronx; Nicola Iannella, 1422 Gillespie Avenue, Bronx; Allan Garden, 3722 Blackstone Avenue, Bronx; Mollie Goldberg, 2234 Esplanade, Bronx; Lucio G. Pavia, 3153 Seymonr Avenue, Bronx; Margaret Antiaris, 1181 Sacket Avenue, Bronx; Estelle Eisen, 3311 Giles Place, Bronx; Alfred R. Satin, 3516 DeKalb Avenue, Bronx; Anthony Bochichio, 414 East 203d Street, Bronx; Walter M. Fredyna, 2018 Paulding Avenue, Bronx.

By Councilman Povman—Beatrice Brown, 6914 173d Street, Queens.

By Councilman Ribustello—John R. Cava, 116 East Mosholu Parkway South, Bronx.

By Councilman Richmond—Edward DeSabato, 232 Powers Street, Brooklyn; Gertrude Sagalow, 1819 Beverly Road, Brooklyn; Muriel Colin, 30 Montrose Avenue, Brooklyn; Sam J. Casalino, 1357 40th Street, Brooklyn.

By Councilman Sadowsky—Sydney Straus, 8354 Vietor Avenue, Queens; Filomena Gentile, 5618 103d Street, Queens; Estelle La Sala, 312 149th Place, Queens; Morris Marlow, 5127 Goldsmith Street, Queens; Catherine Nardiello, 9422 55th Avenue, Queens.

By Councilman Salman—Ana Rodriguez, 488 Claremont Parkway, Bronx; Carmelo Viera, 759 Melrose Avenue, Bronx; Dellene V. Goodman, 1056 Sherman Avenue, Bronx; Marie Hills, 1755 Weeks Avenue, Bronx; Edward J. Lamb, 2815 Grand Concourse, Bronx; Alice Smith, 2780 University Avenue, Bronx; Annie M. Edwards, 773 Concourse Village East, Bronx.

By Councilman Sharison—Barry Serper, 328 East 11th Street, Manhattan; Robert S. Frielich, 70 East 10th Street, Manhattan; Rhoda Starr, 430 East 20th Street, Manhattan; Oscar L. Kaufman, 150 Broadway, Manhattan; Martin Gitwin, 488 Arbuckle Avenue, Manhattan.

By Councilman Silverman—Carmine Russo, 3114 Avenue I, Brooklyn; Eleanore V. Duberstein; 60 Turner Place, Brooklyn; Florence R. Diamond, 1040 East 54th Street, Brooklyn; Abraham Gardner, 2942 West Fifth Street, Brooklyn; Beatrice Brandeis, 1229 East 36th Street, Brooklyn; Sylvia R. Steinberger, 55 Lenox Road, Brooklyn; John W. Greenlay, 2147 East 13th Street, Brooklyn; Elsie C. Kamer, 70 East 8th Street, Brooklyn; Bessie B. Lineal, 2183 Batchelder Street, Brooklyn.

By Councilman Simon—Helene Kula, 2230 Cruger Avenue, Bronx; Sadie Levine, 58 East 190th Street, Bronx.
By Councilman Stromberg—Vera L. White, 620 Rosedale Avenue, Bronx.
By Councilman Taylor—Aulanthia C. Vaughn, 2186 5th Avenue, Manhattan; Louis R. Monclova, 908 Amsterdam Avenue, Manhattan; Ernest Baird, 720-736 Lenox Avenue, Manhattan.
By Councilman Thompson—Bernard Forman, 624 East 93d Street, Brooklyn; Lola Harrington, 346 Marion Street, Brooklyn; Inez Miller, 644 Jefferson Avenue, Brooklyn.
Councilman Troy—Elsie Frank, 7348 180th Street, Queens; Joseph M. Coffrini, 5826 83d Place, Queens; Joseph Schechter, 8730 204th Street, Queens; James Brandi, 251-08 87th Avenue, Queens; Rose Orell, 5605 Douglaston Parkway, Queens; Sylvia Pirtz, 8644 124th Street, Queens; Jacqueline Bowen, 190-41 111th Road, Queens; Marvin Wiener, 201-40 Epsom Course, Queens; William H. Garten, 5019 215th Street, Queens; Thelma Levine, 7626 Springfield Boulevard, Queens; Cecelia Rolnick, 2171 34th Avenue, Queens; Fanya F. Sumner, 168-10 127th Avenue, Queens; Joseph P. Kivlehan, 4322 58th Street, Queens; Harriet Marks, 8431 Van Wyck Expressway, Queens; Evangeline Gil, 5006 46th Street, Queens; Saul Lehman, 153-02 58th Avenue, Queens; Arthur Rabinowicz, 8204 138th Street, Queens; John A. Maiorana, 8170 Langdale Street, Queens.
By Councilman Ward—Grayce Abrozzo, 159-15 92d Street, Queens; Viola Lockett Mosley, 116-11 157th Street, Queens; M. Louise Sample, 187-06 119th Drive, Queens; Michael Canner, 161-15 90th Street, Queens; Anna Wilson, 116-11 157th Street, Queens.
By Councilman Weiss—Michael William Proscia, 877 10th Avenue, Manhattan; Beatrice F. Feld, 15 Central Park West, Manhattan.

On motion of the Vice-Chairman (Mr. Cuite), and adopted, the foregoing matter was coupled as a General Order for the day. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

ROLL CALL ON GENERAL ORDERS FOR THE DAY

The Vice-Chairman (Mr. Cuite), moved that the following General Orders for the day be adopted:

(1) **Int. No. 1131A**– Air conditioning systems—M/N.
(2) **Int. No. 1160**—Corridor doors.
(3) **Int. No. 1195A**— Safeguards for trucks—M/N.
(4) **Int. No. 1232**—Ramps.
(5) **Int. No. 1254A**—Fees for signs—M/N.
(6) **Int. No. 1282A**—Dept. of Bldgs & HSA—M/N.
(7) **Int. No. 1375**—Ventilation of public halls.
(8) **M-1003 & Res. 1309**—Street & park tree planting, Lump sum.
(9) **M-1008 & M-1014 & Res. 1310**—Ft. Hamilton Pkwy.
(10) **M-1010 & M-1016 & Res. 1311**—Tree planting.
(11) **M-1011 & Res. 1312**—City Council transfer.
(12) **M-1012 & Res. 1313**—Dept. of Probation transfer.
(13) **Int. No. 952**—Harry Maze Memorial Park.
(14) **Int. No. 1342A**—"Police Plaza" Manh.—M/N.
(15) **Int. No. 1346**—Henry A. Whalen Park, Bx.
(16) **Int. No. 1349**—Kings Plaza, Bklyn.
(17) **Int. No. 715A**—Date and fees for firearms licenses—M/N.
(18) **Int. No. 1305A**—Lobbying—M/N.
(19) **G.O. No. 113—Int. No. 1392A**—Partial exemption R.E. Tax.
(20) **Resolution—Appointing various persons Commissioner of Deeds.**

The President put the question whether the Council would agree with and adopt such reports which were decided in the *affirmative* by the following vote:

Affirmative—Arculeo, Biondolillo, Burden, Clingan, Cohen, Curry, DeMarco, Frankenberg, Friedland, Gaeta, Golden, Mrs. Greitzer, Haber, Katz, Mrs. Lerner, Manton, Mastropieri, Mercorella, Postel, Povman, Ribustello, Richmond, Mrs. Ryan, Sadowsky, Salman, Sharison, Silverman, Simon, Mrs. Stromberg, Taylor, Thompson, Troy, Ward, Weiss, and the Vice-Chairman (Mr. Cuite), and the President pro tem (Mr. DiBlasi)—36.

ROLL CALL ON ITEMS LAID ASIDE

The Vice-Chairman (Mr. Cuite) moved that the following General Orders for the day previously laid aside be adopted.

(21) **Int. No. 1401A**—Board of Estimate Compensation.

At this point Mr. Biondolillo moved to amend Intro 1401A by excluding the words "Borough Presidents" from the bill.

The President put the question whether the Council would agree with and adopt such amendment which was decided in the *negative* by the following vote:

Negative—Burden, Clingan, Cohen, Friedland, Gaeta, Golden, Mrs. Greitzer, Haber, Katz, Postel, Povman, Ribustello, Richmond, Mrs. Ryan, Sadowsky, Salman, Silverman, Simon, Mrs. Stromberg, Troy, Ward, Weiss, and the Vice-Chairman (Mr. Cuite), and the President pro tem (Mr. DiBlasi)—24.

Affirmative—Biondolillo, Taylor—2.

Not Voting—Arculeo, Curry, DeMarco, Frankenberg, Lerner, Manton, Mastropieri, Mercorella, Sharison, Thompson—10.

Motion Lost.

The President put the question whether the Council would agree with and adopt such report which was decided in the *affirmative* by the following vote:

Affirmative—Arculeo, Burden, Clingan, Cohen, Curry, DeMarco, Frankenberg, Friedland, Gaeta, Golden, Mrs. Greitzer, Haber, Katz, Mrs. Lerner, Manton, Mastropieri, Mercorella, Postel, Povman, Ribustello, Richmond, Mrs. Ryan, Sadowsky, Salman, Sharison, Silverman, Simon, Thompson, Troy, Ward, Weiss, and the Vice-Chairman (Mr. Cuite), and the President pro tem (Mr. DiBlasi)—33.

Negative—Biondolillo, Mrs. Stromberg, Taylor—3.

(22) G.O. No. 108—Int. No. 1285—Auto Horns.

Participating in the discussion of the above Bill were Councilmen Weiss, Cohen and Golden.

At this point Mr. Weiss moved to amend GO No. 108 by inserting the following language "85" DB in the place of "108" DB.

The President put the question whether the Council would agree with and adopt such motion which was decided in the *negative* by the following vote:

Negative—Arculeo, Biondolillo, Cohen, DeMarco, Gaeta, Golden, Mrs. Lerner, Postel, Povman, Ribustello, Richmond, Mrs. Ryan, Salman, Silverman, Mrs. Stromberg, Taylor, Troy, Ward, and the President pro tem (Mr. DiBlasi)—19.

Affirmative—Burden, Clingan, Frankenberg, Friedland, Mrs. Greitzer, Sadowsky, Simon, Weiss—8.

Not Voting—Curry, Haber, Katz, Manton, Mastropieri, Mercorella, Sharison, Thompson and the Vice-Chairman (Mr. Cuite)—9.

Motion Lost—

The President put the question whether the Council would agree with and adopt such report which was decided in the *affirmative* by the following vote:

Affirmative—Arculeo, Biondolillo, Cohen, Curry, DeMarco, Frankenberg, Gaeta, Golden, Haber, Katz, Mrs. Lerner, Mastropieri, Mercorella, Postel, Povman, Ribustello, Richmond, Mrs. Ryan, Salman, Mrs. Stromberg, Taylor, Troy, Ward, and the Vice-Chairman (Mr. Cuite), and the President pro tem (Mr. DiBlasi)—25.

Negative—Burden, Clingan, Friedland, Mrs. Greitzer, Sadowsky, Simon, Weiss—7.

Not Voting—Manton, Sharison, Silverman, Thompson—4.

INTRODUCTION AND READING OF BILLS

Int. No. 1407

By Mr. Biondolillo—

A LOCAL LAW to amend the charter of the city of New York in relation to the granting of franchises and contracts pertaining thereto by the board of estimate and council.

Be it enacted by the Council as follows:

Section 1. To amend section 362 of chapter fourteen of the charter to read as follows:

§ 362 **Powers of the board of estimate and council.**—The board of estimate shall have the control of the streets of the city, except as in this charter otherwise provided, and shall have the [exclusive] power *contemporaneous with that of the council,* in behalf of of the city to grant franchises or rights or make contracts providing for or involving the occupation or use of any of the streets of the city, whether on, under or over the surface thereof, for railroads, pipe or other conduits or ways or otherwise for the transportation of persons or property or the transmission of gas, electricity, steam, light, heat or power, or the installation of transformer vaults, and to give the consent of the city to any franchise or right of any kind or nature whatsoever for or relating to the occupation or use of the streets of the city under the provisions of the constitution or of any statute.

§ 2. To amend chapter fourteen, section 363 of the charter to read as follows:

§ 363 **Franchise to be granted by contract.**—Every grant of or consent to a franchise of any character or modification thereof must be by contract executed by or under the authority of the board of estimate *and with the approval of the council.*

§ 3. This local law shall take effect immediately if and when approved by the voters of the city at the next general election.

Referred to the Committee on Charter and Governmental Operations.

Int. No. 1408

By Mr. Biondolillo—

A LOCAL LAW to amend the administrative code of the city of New York in relation to a comprehensive six year plan to control new residential development.

Be it enacted by the Council as follows:

Section 1. Title A of chapter 8 of the administrative code of the city of New York is hereby amended by adding thereto the following new sections 201-1.0, 201-1.1, 201-1.2, 201-1.3, 201-1.4, 201-1.5 to follow section 20003.0 to read as follows:

§ 201-1.0 **Definitions.**—(a) Residential development use shall include the erection or construction of dwellings on any vacant plots, lots, or parcels of land. It shall not include the alteration, repair, demolition or maintenance of existing dwellings or construction or erection of structures accessory to such dwellings.

(b) A residential developer shall mean any person who has an interest in land and causes such land, directly or indirectly, to be developed for residential development.

(c) A development agent shall be any person who represents or acts in behalf of a residential developer in selling, leasing or developing, or offering to sell, lease or develop any interest, lot, plot, parcel, site or unit for residential development use, except an attorney at law whose representation of another person consists solely of rendering legal services.

§ 201-1.1 **Requirement of a plan.**—(a) The city planning commission shall prepare a comprehensive six-year plan for the purpose of controlling the development of land for new residential development use.

(b) Such plan shall specify the location of proposed streets, schools, parks, sanitary sewers and storm drainage facilities, their projected cost and expected completion dates.

§ 201-1.2 **Special permit required for residential development use.**—Prior to the issuance of a building permit for a residential development use, a residential developer or development agent, shall be required to obtain a special permit from the city planning commission.

§ 201-1.3 **Procedure for special permit.**—(a) The residential developer, or development agent, shall be required to submit to the commission an application in such detail as the commission shall require in its regulations.

(b) Such application shall include a map indicating the location of all the land holdings in the immediate vicinity under the ownership of the applicant and the extent of the land proposed for development.

(c) The commission shall review said application with respect to all standards set forth in section 201-1.4 of this article and render a decision within forty-five (45) days from submission thereto.

§ 201-1.4 **Standards for issuance of a special permit.**—(a) No special permit shall be issued by the commission unless the residential development contemplated scores eighteen (18) devlopment points based on the following scale of values:

1. Sanitary sewers
   - a. Connection to municipal sanitary sewer system ..... 5 points
   - b. Connection to private treatment plant ..... 3 points
   - c. Septic tanks or single family plant ..... 1 point
2. Storm drainage
   - a. Connection to municipal storm drainage system ..... 5 points
   - b. Drainage into adequate stream ..... 1 point
3. Elementary School
   - a. Within one-half mile ..... 5 points
   - b. Within three-quarters of a mile ..... 3 points
   - c. Access to bus with no unit more than one-quarter of a mile from bus stop ..... 1 point
4. Intermediate school
   - a. Within one mile ..... 5 points
   - b. Within one-half mile ..... 3 points
   - c. Access to mass transit with no unit more than one-half mile from transit stop ..... 1 point
5. Streets
   - a. Access to a collector or arterial street within one-quarter mile from each unit ..... 3 points
6. Parks
   - a. Developed park within one-half mile of all units ..... 3 points
   - b. Common open space of 350 square feet per unit, within one-half mile of each unit ..... 1 point

(b) This section shall not prohibit or restrict a residential developer or a development agent from qualifying for a special permit, under the above mentioned point system, if he independently provides the facilities and services enumerated therein prior to their implementation under the capital improvement program.

§ 201-1.5 **Vested approval of special permit.**—The commission shall approve an application for a special permit vesting a present right for the residential developer to proceed with residential development use, for such year as the proposed development meets the required points as indicated in the scheduled completion dates of the capital budget. Any improvement scheduled in the capital budget for completion within one year from the date of application for the special permit shall be deemed in existence as of the date of application. Any improvement scheduled for completion in the capital budget more than one year from the date of application shall be deemed in existence as of the scheduled date of completion.

§ 2. This local law shall take effect ninety days after its enactment.

Referred to the Committee on Buildings.

Res. No. 1314

Resolution Calling on the Council to Investigate the Influx of New Construction of Senior Citizens' Homes in the Residential Areas of the Borough of Richmond.

By Mr. Biondolillo—

Whereas, The Borough of Richmond has recently experienced a rapid growth of population; and

Whereas, Such population growth has resulted in the deprivation of essential mass transit, sewerage, and hospital service for thousands of residents; and

Whereas, Such borough is characteristically residential in nature; and

Whereas, There presently appears to exist a sufficient number of proprietary homes to adequately accommodate the elderly residing in such borough; and

Whereas, The construction of additional senior citizens' homes would destroy the integrity of existing communities, thereby creating an institutional environment in lieu of residential neighborhoods; and

Whereas, Such new construction would place an intolerable strain on the already overtaxed and wholly inadequate local health facilities; and

Whereas, Such new construction is presently being contemplated by numerous developers; now, therefore, be it

Resolved, That the Council embark upon an investigation of the influx of new construction of senior citizens' homes in the residential areas of the Borough of Richmond.

Referred to the Committee on Rules, Privileges and Elections.

Res. No. 1315

Resolution Calling Upon the Metropolitan Transportation Authority, the Carey Transportation Company, and the Major Domestic Airlines Carriers to Reach Immediate Agreement Providing For the Continued Operation For the Indefinite Future of the East Side Airlines Terminal.

By Messrs. Burden, Haber, Povman, Clingan, Mrs. Ryan, Messrs. Katzman, Weiss, Arculeo, Richmond—

Whereas, The East Side Airlines Terminal was built more than twenty years ago to provide a central terminal facility for travelers to all three New York area airports, and to reduce midtown traffic congestion by housing mass transit buses which service these airports, and

Whereas, Despite higher fares and a general deterioration in the dependability of bus service in recent years, nearly three million passengers annually continue to rely on the comfort and convenience of the East Side Airlines Terminal, and

Whereas, An interim agreement now in effect between the Metroplitan Transit Authority, the Carey Transportation Company and representatives of the major domestic airlines carriers has forestalled for a three-month period the closing of the Terminal originally scheduled for October 31st, and

Whereas, The closing of the Terminal would engender severe consequences for the millions of passengers who utilize buses to reach New York's airports by forcing them to catch buses on street corners at all hours of the day and night in all kinds of weather, often at great personal risk in terms of safety and security, with the added uncertainty of irregular bus schedules and an absence of dispatchers to provide information and efficient service, and

Whereas, The closing of the Terminal will also return to the city's streets dozens of buses daily, thereby adding both to congestion and air pollution, and

Whereas, The closing of the Terminal will leave New York City as the only major city in the world with no terminal facilities to handle incoming travelers and foreign visitors; now, therefore, be it

Resolved, That the Council of The City of New York issues an urgent call for the Metropolitan Transit Authority, the Carey Transportation Company and the major

domestic airline carriers to resolve their remaining differences and to negotiate a final agreement insuring the continued operation for the indefinite future of the East Side Airlines Terminal.

On motion of the Vice-Chairman (Mr. Cuite), and adopted. The matter was made a General Order for the Day and unanimously adopted by a viva voce vote.

Res. No. 1316

Resolution Calling on the State Legislature to Amend the Victims of Crimes Compensation Law to Empower the "Victims of Crimes" Hearing Board to Grant Compensation to Persons Charged with Crimes but Subsequently Found to be Innocent Before Trial.

By Mr. Mercorella—

Whereas, The citizenry of The City of New York, not unlike the citizenry of urban areas throughout the nation, has been brutally victimized by an ever escalating crime rate; and

Whereas, The victims of such crimes often suffer loss of life and/or limb; and

Whereas, Such loss frequently results in the victim's inability to provide a sufficient income for his family and himself due to his diminished physical and/or mental state; and

Whereas, The state legislature enacted the victims of crimes compensation law as a means of providing recompense to those unfortunate citizens victimized by crime; and

Whereas, Such law has partially succeeded in restoring order to those households aggrieved by the incident of crime; and

Whereas, The police department in the proper dispatch of its duty has infrequently arrested individuals wrongfully accused of crimes; and

Whereas, Such wrongfully accused individuals often receive enormous press coverage upon their apprehension by police authorities; and

Whereas, Prior to acquital before trial such adverse press coverage undeniably and irreparably damages the accused in his professional, community and family life; and

Whereas, Such irreparable injury makes one wrongfully accused of a crime a victim of society; and

Whereas, Such victim presently is without redress in law; now, therefore, be it

Resolved, That the state legislature should amend the victim of crimes compensation law to empower the "victims of crimes" hearing boad to grant compensation to persons charged with crimes but subsequently found to be innocent before trial.

Referred to the Committee on General Welfare.

Res. No. 1317

Resolution Calling Upon the Mayor to Institute a Computerized Car Pool System for Municipal Employees.

By Mr. Richmond—

Whereas, The nation in general and The City of New York are currently faced with an unprecedented energy crisis; and

Whereas, The continued high level of consumption of gasoline is detrimental to efforts to ease the current energy crisis and that every effort must be made to reduce current levels of energy consumption; and

Whereas, The Federal Department of Transportation, Office of Highway Planning is willing to make available a computer program designed specifically to increase the use of car pools which are a proven factor in energy conservation; and

Whereas, The Department of Transportation s willing to provide The City of New York with expert assistance in setting up the program; and

Whereas, It is estimated that almost 100,000 city employees currently use their automobiles to get to their work location; and

Whereas, All city employees are currently indexed in city computers so that the Department of Transportation's program can be implemented with great speed; and

Whereas, This computerized car pool system has already been instituted in Los Angeles and Baltimore with great success; therefore, be it

Resolved, That the Council calls upon the Mayor to take all necessary steps to request the assistance of the United States Department of Transportation in organizing a computerized car pool for New York City employees.

For Immediate Consideration.

Referred to the Committee on General Welfare.

Res. No. 1318

Resolution Calling for the City Council to Investigate the Operations of Con Edison.

By Mr. Richmond—

Whereas, Con Edison although charged with the responsibility of providing New York City with electric power has consistently failed to meet the power needs of the City; and

Whereas, Con Edison rates continue to be the highest in the nation while services to consumers is among the poorest in the country; and

Whereas, Con Edison continues to bill thousands of New Yorkers on the basis of estimated bills and has not yet devised an accurate billing procedure; and

Whereas, Recent disclosures have revealed that Con Edison has been less than honest in its dealings with The City of New York and that Con Edison has used its subsiding companies to boost rates and create a false impression of inflated costs; and

Whereas, Con Edison has filed application for new rate increases totaling almost 30 per cent yet has failed to adequately upgrade capital equipment for more efficient production despite numerous past rate increases; and

Whereas, Con Edison's latest application before the Public Service Commission for a "conservation adjustment" is a blatant attempt to artificially maintain profits at a time when all New Yorker's are being asked to make sacrifices to cope with the energy crisis; and

Whereas, The latest action is typical of the manner in which Con Edison consistantly operates against the interests of The City of New York; and

Whereas, Con Edison has never been required to make detailed public disclosures of its internal operations; now, therefore, be it

Resolved, That the Council undertake a thorough and complete investigation into the operations of Con Edison and all wholly or partly owned subsidiaries; its operating capital and expense costs; its internal operations and all other affairs of the company.

Referred to the Committee on Rules, Privileges and Elections.

Res. No. 1319

A Resolution Calling for the Impeachment of President Nixon.

By Messrs. Weiss, Mercorella, Mrs. Greitzer, Messrs. Clingan, Taylor, Sadowsky, Postel, Katzman—

Whereas, There is substantial evidence that President Richard M. Nixon violated the Constitution and laws of the United States, and his oath of office to uphold same; now, therefore, be it

Resolved, That the Council of The City of New York call upon the House of Representatives to initiate forthwith impeachment proceedings against President Richard M. Nixon, and be it further

Resolved, That copies of this resolution be transmitted to United States Senators Jacob K. Javits and James L. Buckley, and each member of the New York Congressional delegation.

Immediate consideration being objected to by Messrs. Arculeo and Ribustello. This resolution was referred to the Committee on General Welfare.

INTRODUCTION AND READING OF BILLS (Continued)

Res. No. 1320

IN MEMORIAM—JEFFREY P. C[illegible]EN

By the entire Council—

Whereas, The Council has learned with deep sorrow [illegible]e death on November 13 of Jeffrey P. Cohen, an assistant to Queens Boro[illegible] President Donald R. Manes; and

Whereas, He was Queensborough narcotics co[illegible]linator and last spring won a Man of the Year Award from the Samaritan Halfway Society "for outstanding achievement in the field of drug abuse"; and

Whereas, He had joined the Borough President's staff as an assistant in 1970, and had been an administrative assistant to Mr. Manes, then a member of the Council, since 1965; now, therefore, be it

Resolved, That the Council of The City of New York does hereby tender this expression of its sorrow and joins with the family in mourning his passing; and be it further

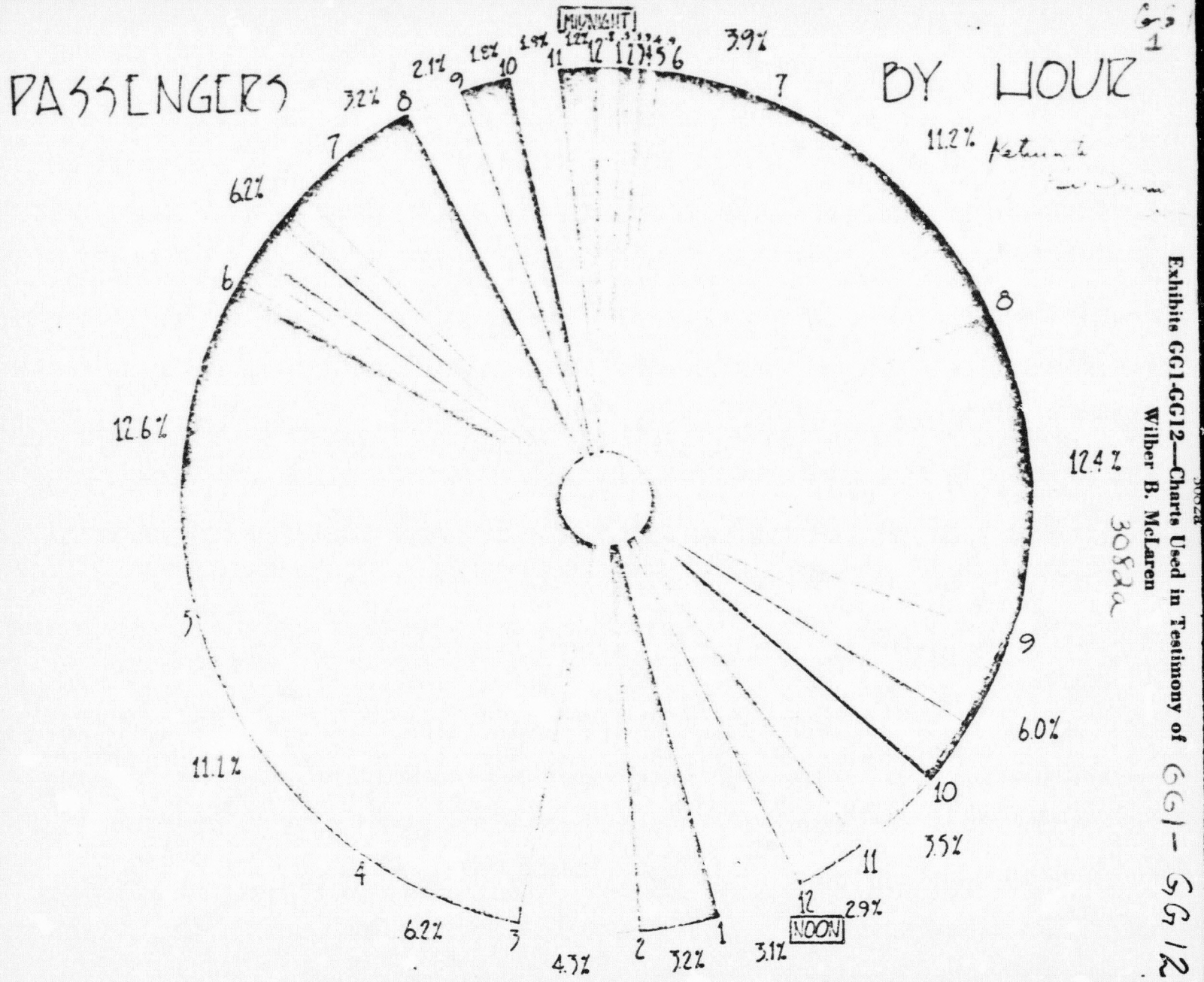
Resolved, That as an expression of respect the Council does hereby adjourn in memory of the late Jeffrey P. Cohen; and be it further

Resolved, That copies of this Resolution be sent to his mother, Mae.

On motion of the Vice-Chairman (Mr. Cuite), and adopted. The matter was made a General Order for the Day and unanimously adopted by a rising vote.

Whereupon on motion of the Vice-Chairman (Mr. Cuite), the Council adjourned to meet again subject to call.

HERMAN KATZ, City Clerk and Clerk of the Council.



Exhibits GG1-GG12—Charts Used in Testimony of Wilber B. McLaren

GG1 - GG12

3082a

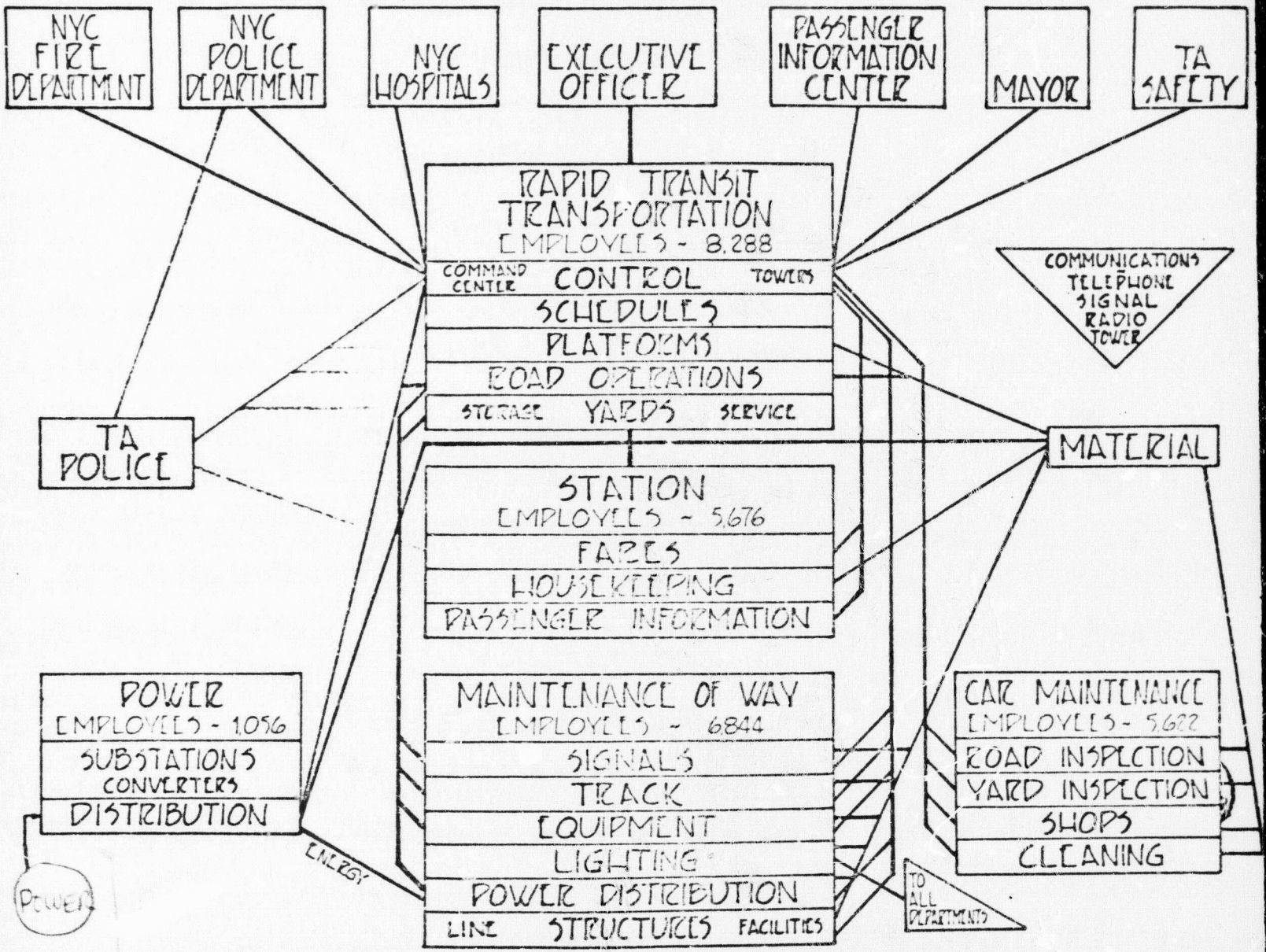
SYSTEM HIGHLIGHTS

	RAPID TRANSIT	SURFACE
BMT BEGAN OPERATIONS	1878	
FIRST SUBWAY IN MANHATTAN - IRT	1904	
OLDEST TUNNEL STILL USED OPENED	1904	
FIRST SUBWAY IN BROOKLYN - IRT	1908	
IND SUBWAY BEGAN OPERATIONS	1932	
UNIFICATION - IRT & BMT	1940	
ACQUIRED MANHATTAN, QUEENS AND STATEN ISLAND BUS DIVISIONS		1947-48
PASSENGERS - AVERAGE WEEKDAY	3,862,743	2,234,330
PASSENGERS - ANNUALLY	1,122,455,852	717,752,012
WORKFORCE HOURLY (OPERATING)	15,614	10,158
HOURLY (MAINTENANCE)	8,720	2,266
ANNUAL (OPERATIONS)	3,227	1,631
PROFESSIONAL (ENGINEERING)	1,091	10
PROFESSIONAL (LEGAL, ACCOUNTING & MEDICAL)	161	87
CAREER & SALARY (OTHER THAN PROFESSIONAL)	2,020	424
POLICE	3,607	
TOTAL	34,440	14,576
PERCENT OF HOURLY EMPLOYEES WORKING AT LEAST PART OF DUTY TOUR NIGHTS, SATURDAYS OR SUNDAYS	— 76% —	
HOURS WORKED NIGHTS, SATURDAYS AND SUNDAYS AS A PERCENT OF TOTAL HOURS WORKED BY HOURLY EMPLOYEES	46%	36%
PERCENT OF HOURLY EMPLOYEES REQUIRING REPLACEMENT	77%	94%
PERCENT OF HOURLY EMPLOYEES WORKING WITHOUT DIRECT SUPERVISION	67%	76%

SYSTEM HIGHLIGHTS		RAPID TRANSIT	SURFACE
POWER GENERATING SUBSTATIONS		177	
KILOWATT HOURS OF ELECTRICITY USED ANNUALLY		2,300,000,000	
REPLACEMENT OF RAILS PER YEAR (LINEAR FEET)		600,000	
REPLACEMENT OF TIES PER YEAR		70,000	
GALLONS OF DIESEL OIL COMSUMED ANNUALLY			30,000,000
PASSENGER FATALITIES - 1973-74 (HIT BY TRAIN - 207)		DOA 92	17
PASSENGER ACCIDENTS - 1973-74		6,152	2,527
TRAFFIC ACCIDENTS - 1973-74			8,120
SUBWAY FIRES - 1973		430	
EMPLOYEE FATALITIES - 1946 - 1974 (TA)		194	
EMPLOYEE LOST TIME ACCIDENTS - 1973-74		1,576	
EMPLOYEE ACCIDENTS - 1973-74		6,722	
SUBWAY CARS OR BUSES		6,704	4,580
WORK VEHICLES		476	102
ROAD MILEAGE	OPEN CUT OR SURFACE	76	1,331
	ELEVATED	186	
	UNDERGROUND	448	
	TOTAL	710	1,331
NUMBER OF ROUTES		31	200
TRAIN OR BUS TRIPS - AVERAGE WEEKDAY		7,265	75,940
RIVER CROSSINGS	TUNNELS	13	
	BRIDGES	9	
	TOTAL	22	

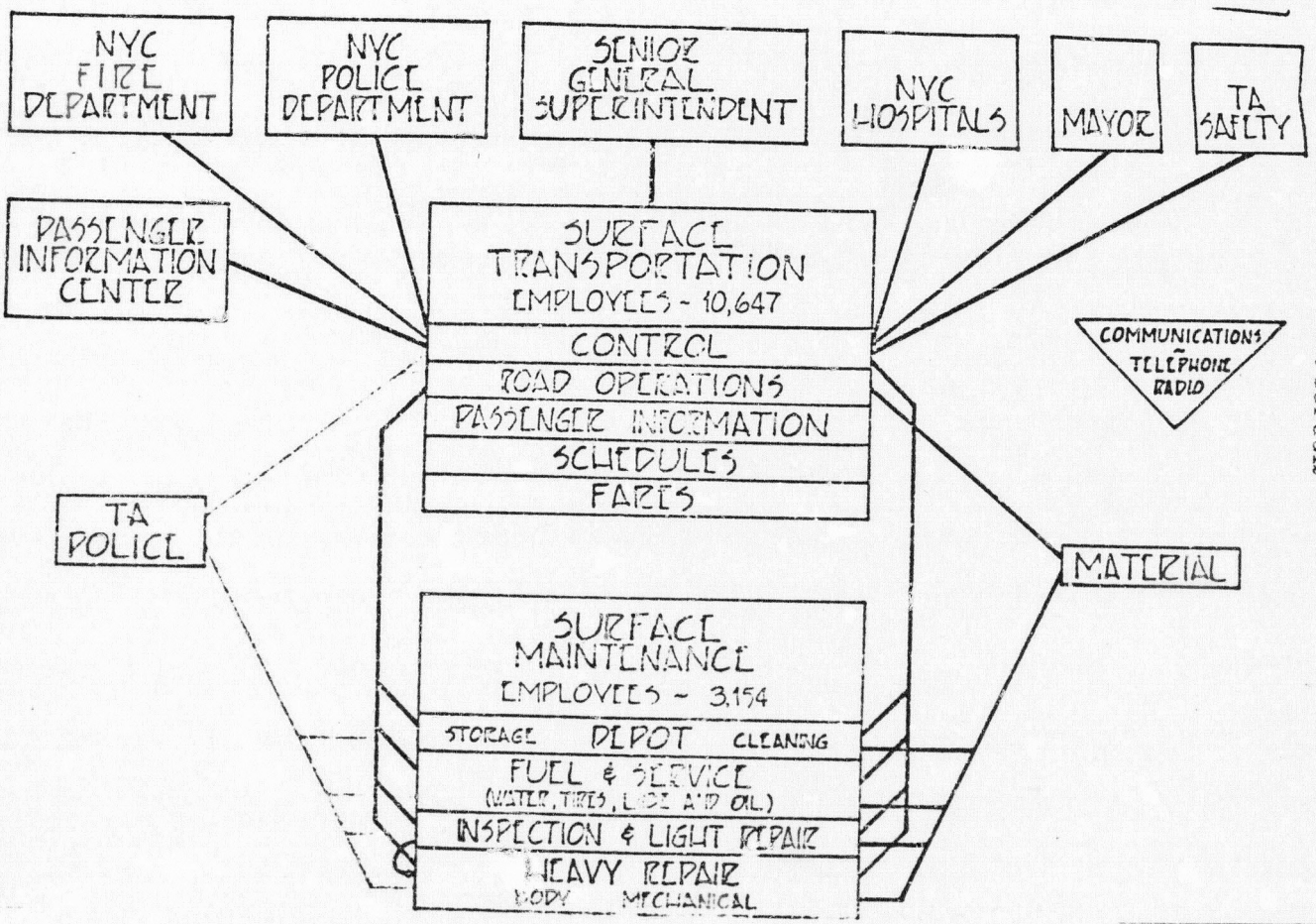
SYSTEM HIGHLIGHTS		RAPID TRANSIT	SURFACE
STATION OR BUS STOPS	OPEN CUT OR SURFACE	38	15,000
	ELEVATED	160	
	UNDERGROUND	265	
	TOTAL	463	15,000
STATION BOOTHS	24 HOUR OPERATION	591	
	PART-TIME OPERATION	221	
	TOTAL	812	
STATION BOOTH ROBBERIES 1973-74	NUMBER	1,049	
YARDS OR DEPOTS		18	20
SHOPS		35	2
CONTROL TOWERS	MANNED	153	
	REMOTE CONTROL	32	
	TOTAL	185	
SIGNALS		10,481	
TELEPHONES		6,549	
RADIOS		3787	4,980
PUBLIC ADDRESS SPEAKERS		2,325	
TURNSTILES		2,993	
ELEVATORS & ESCALATORS		137	
LIGHTING FIXTURES		306,741	

Exhibits 661-6612 3086a



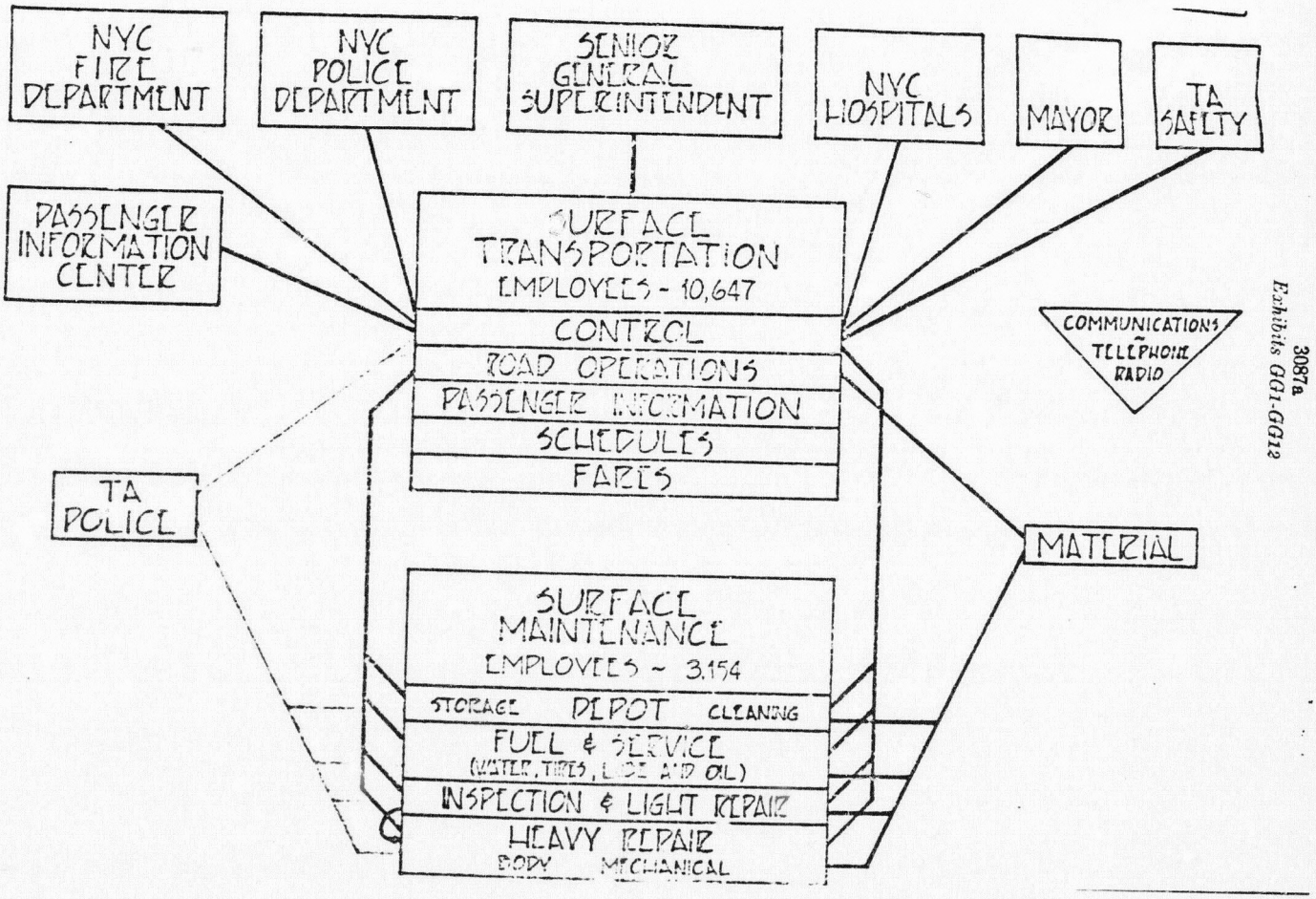
3087a Exhibits GG1-GG12

GG6



3087a
Exhibits GG1-GG12

3087a Exhibits GG1-GG12



HAZARDS

GG 8

RAPID TRANSIT TRANSPORTATION PASSENGER ACCIDENTS 1973-74 2,399

a) PASSENGER ACCIDENTS - BOARDING, ON BOARD, BETWEEN CARS, FALLING UNDER TRAINS, FIRES, SMOKE, CRIME, DRINKING, DRUGS, VANDALISM
b) TRAIN OPERATIONS & INTERRUPTIONS
c) COLLISIONS & DERAILMENTS
d) FATALITIES - TRACKS, YARDS & STRUCTURES
e) ASSAULTS ON MOTORMEN & CONDUCTORS - CRIME, DRINKING, DRUGS, VANDALISM

STATION PASSENGER ACCIDENTS 1973-74 3,753

a) PASSENGER ACCIDENTS - STAIRS, ESCALATORS, PLATFORMS, EVACUATION (EMERGENCY) CRIME, DRINKING, DRUGS, VANDALISM
b) STATION BOOTH ROBBERIES & ASSAULTS
c) STATION CLEANING - CHEMICAL HAZARDS

MAINTENANCE OF WAY HIGH ACCIDENT SEVERITY RATE 1973-74 1,802 COMPARES TO QUARRY INDUSTRY

a) SIGNAL, STRUCTURE & TRACK MAINTENANCE - HIGH FATALITIES - STRUCK BY TRAINS
b) THIRD RAIL MAINTENANCE - SEVERE BURNS
c) FACILITY MAINTENANCE - CONSTRUCTION INDUSTRY TYPE EXPOSURE
d) FIRE PREVENTION

POWER HIGH ACCIDENT SEVERITY RATE 1973-74 3,188 COMPARES TO MINING UNDERGROUND EXCEPT COAL INDUSTRY

a) HIGH VOLTAGE EQUIPMENT & POWER LINES - SEVERE BURNS
b) ELECTRICAL FIRES - EXPLOSIONS & SEVERE BURNS

CAR MAINTENANCE HIGH ACCIDENT FREQUENCY RATE 1973-74 25.61 COMPARES TO MINING UNDERGROUND EXCEPT COAL INDUSTRY

a) SHOP OPERATIONS - MECHANICAL, MATERIAL HANDLING & SHOP EXPOSURE - INJURY TO BACK, LIMBS, EYES & HEAD
b) ELECTRICAL EQUIPMENT - EXPLOSIONS, BURNS, 600 VOLT LEADS
c) ON THE ROAD SERVICE - EXPOSURE TO TRAIN OPERATIONS
d) CHEMICALS IN MAINTENANCE, CLEANING & FINISHING OPERATIONS - CHEMICAL BURNS

3089a
Exhibits GG1-GG12

GG 1

SURFACE

HAZARDS

SURFACE TRANSPORTATION ACCIDENTS 1973-74 10,647

a) PASSENGER ACCIDENTS - BOARDING, ON BOARD, STRUCK BY MISSILE, CRIME, DRINKING, DRUGS, VANDALISM
b) TRAFFIC ACCIDENTS - WEATHER, POT HOLES; CONGESTION, SPEED, POOR DRIVERS, OBSTRUCTIONS
c) LARGE NUMBER OF STARTS & STOPS
d) ASSAULTS ON PASSENGERS & BUS OPERATORS - CRIME, DRINKING, DRUGS, VANDALISM

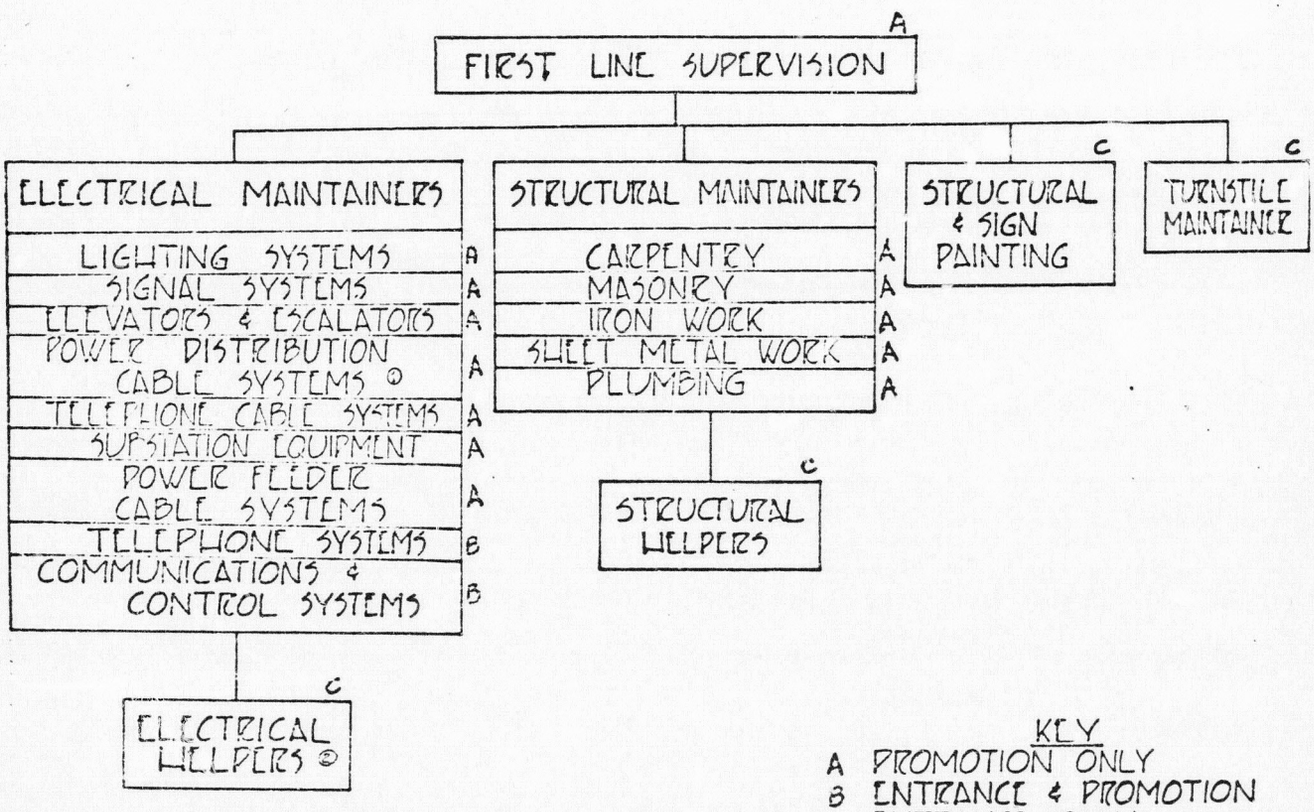
SURFACE MAINTENANCE HIGH FREQUENCY RATE 1973-74 25.25 COMPARED TO MINING UNDERGROUND EXCEPT COAL INDUSTRY

a) SHOP CLEANING - PAINTING, BODY WORK, WELDING, MECHANICAL ACCIDENTS - INJURY TO BACK, LIMBS, EYES & HEAD
b) SERVICE IN SHOPS - PITS, BUS MOVEMENT & FUELING ACCIDENTS
c) ON THE ROAD REPAIR
d) CHEMICAL COMPOUNDS & GRAFFITI REMOVAL

3090a
Exhibits GG1-GG12

Exhibits GG1-GG12 3091a

PROMOTION CHART - RAPID TRANSIT HOURLY



KEY

A PROMOTION ONLY
B ENTRANCE & PROMOTION
C ENTRANCE ONLY

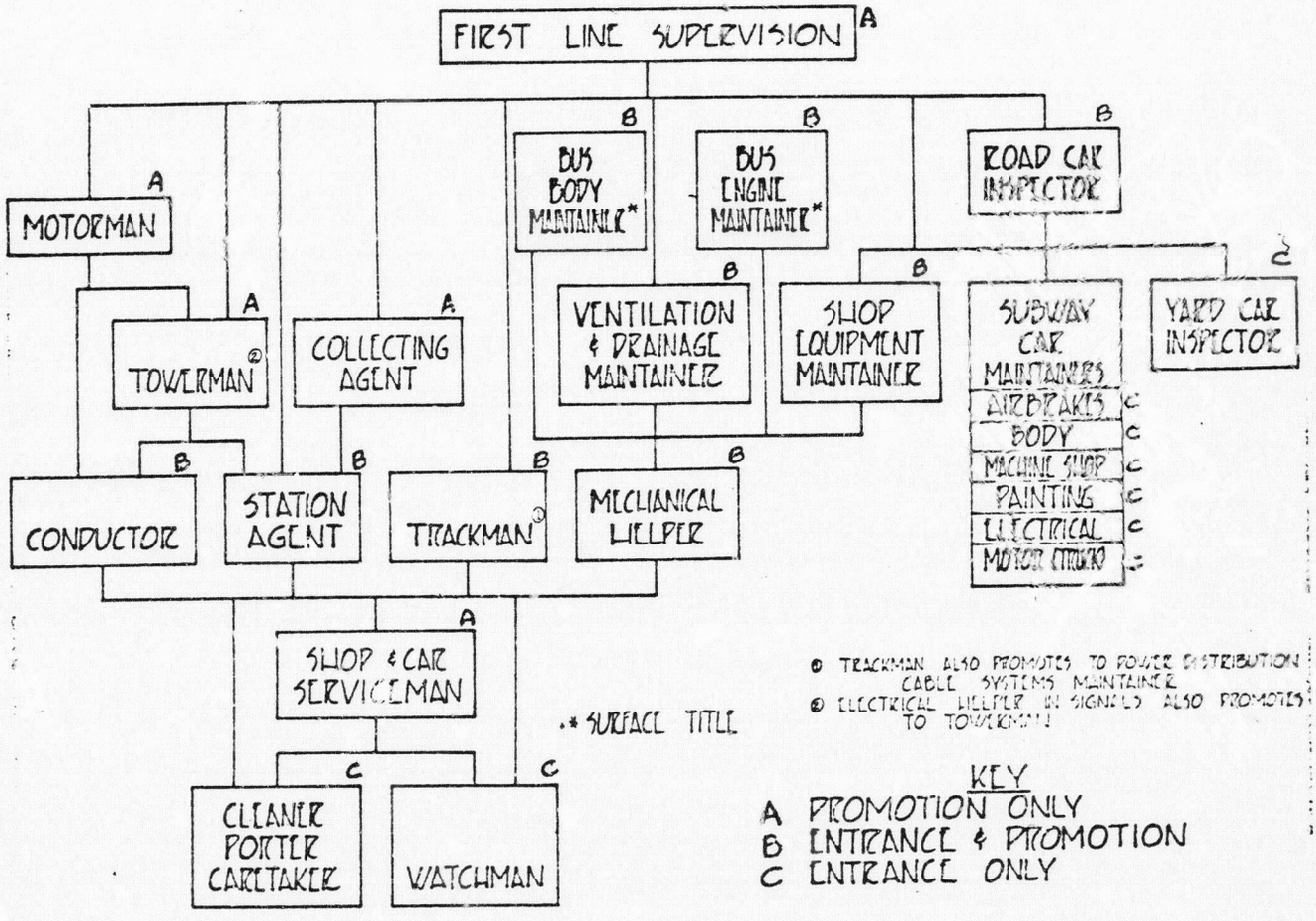
① TRACKMAN ALSO PROMOTES TO POWER DISTRIBUTION CABLE SYSTEMS MAINTAINER
② ELECTRICAL HELPER IN SIGNALS ALSO PROMOTES TO TOWERMAN

3091a
Exhibits GG1-GG12

3092a Exhibits 6611-6612

PROMOTION CHART - RAPID TRANSIT HOURLY

6611



* SURFACE TITLE

① TRACKMAN ALSO PROMOTES TO POWER DISTRIBUTION CABLE SYSTEMS MAINTAINER

② ELECTRICAL HELPER IN SIGNALS ALSO PROMOTES TO TOWERMAN

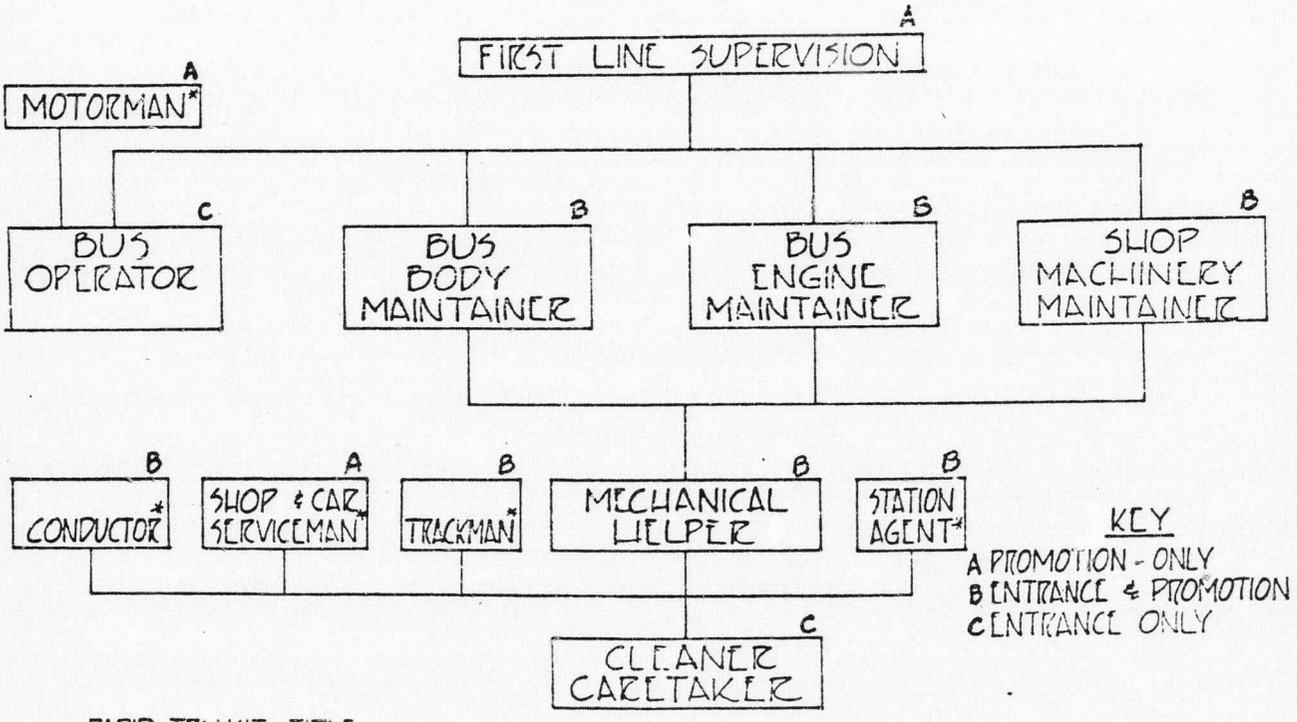
KEY

A PROMOTION ONLY
B ENTRANCE & PROMOTION
C ENTRANCE ONLY

3092a
Exhibits 6611-6612

3093a Exhibits GG1-GG12

PROMOTION CHART - SURFACE HOURLY GG1



* RAPID TRANSIT TITLE

3093a
Exhibits GG1-GG12

III

3094a

Exhibit III—Federal Regulations Regarding the Confidentiality of Methadone Treatment Program Records

CHAPTER III—SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Part

1400 [Reserved]
1401 Confidentiality of drug abuse patient records.

PART 1400—[RESERVED]

PART 1401—CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORDS

GENERAL PROVISIONS

Sec.
1401.01 Definitions.
1401.02 Applicability.
1401.03 General rules regarding confidentiality.
1401.04 Incompetent or deceased patients.
1401.05 Security precautions.
1401.06 Extent of disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

1401.21 Form of consent.
1401.22 Disclosure to medical personnel.
1401.23 Disclosure to governmental personnel for purpose of obtaining benefits.
1401.24 Disclosure in connection with parole, probation, or suspension of prosecution.
1401.25 Disclosure to legal counsel.
1401.26 Evaluation in connection with rehabilitation.
1401.27 Disclosure for purposes of collecting health or other insurance claims.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITHOUT CONSENT OF PATIENT

1401.41 Disclosure without consent in general.
1401.42 Medical emergency.
1401.43 Records maintained in connection with chemotherapeutic treatment.
1401.44 Research, audits, and program evaluation.

CRIMINAL PENALTIES

1401.51 Penalty for unauthorized disclosure.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

1401.61 Relationship of section 408(b)(2)(C) to other provisions of section 408 and to other legislation generally.
1401.62 Scope of orders; relationship to confidentiality provisions of Public Law 91-513.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

1401.71 Applications for orders should be restricted to records of specified patients.
1401.72 Information which should be furnished in support of application.
1401.73 Suggested safeguards against unnecessary disclosures.

AUTHORITY: The provisions of this Part 1401 are authorized under sections 213, 221, 222, and 408 of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255, 21 U.S.C. 1122, 1131, 1132, and 1175), and other relevant provisions of law.

SOURCE: 38 FR 33746, Dec. 6, 1973, unless otherwise noted. (Redesignated at 38 FR 26611, Sept. 24, 1973.)

GENERAL PROVISIONS

§ 1401.01 Definitions.

For the purposes of this part, the following words shall have the meanings indicated:

(a) The term "Act" means the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) including such amendments thereto as may be in effect

at the time the provision referring to it is applied.

(b) The term "Director" means the Director of the Special Action Office for Drug Abuse Prevention.

(c) The term "drug abuse prevention function" means any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions (as defined in 21 U.S.C. 1103(c)), or is unrelated to drugs.

(d) The term "drug abuse prevention function authorized or assisted under any provision of the Act or any act amended by the Act" means any drug abuse prevention function—

(1) Which is conducted or supported, in whole or in part, by any department, agency, or instrumentality of the United States, or

(2) For the lawful conduct of which in whole or part any license, permit, or other authorization is required to be granted by any department or agency of the United States.

(e) The term "patient" means any person who is or has been interviewed, examined, diagnosed, treated, or rehabilitated in connection with any drug abuse prevention function and includes any person who, after arrest on a criminal charge, is interviewed and/or tested in connection with drug abuse preliminary to a determination as to eligibility to participate in a drug abuse prevention program with the approval of the court.

(f) The term "governmental personnel" means those persons who are employed by the U.S. Government, by any State government, or by any agency or political subdivision of either, and includes Veterans Administration personnel as described in § 1401.23(b).

(g) The term "medical personnel" includes physicians, nurses, psychologists, counselors, social workers, and supporting administrative, financial, clerical, and technical personnel.

(h) The term "records" as used in section 408(a) shall include communications and other information, whether recorded or not, relating to the patient's diagnosis, prognosis, or treatment of a patient.

§ 1401.02 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to records or any part thereof made on or after March 21, 1972, of the identity, diagnosis, prognosis, or treatment of any patient who is interviewed, examined or treated in connection with the performance of any drug abuse prevention function authorized or assisted under the Act or any act amended by the Act. This part applies also to records or any part thereof relating to any patient actively participating in a methadone program prior to March 21, 1972 where such prior treatment is part of the continuous treatment actually still substantial on that date.

(b) The provisions of section 408 of the Act (21 U.S.C. 1175) and the remaining provisions of this part do not apply to any interchange of records entirely within the Armed Forces, within those components of the Veterans Administration furnishing health care to veterans, or between such components and the Armed Forces, but otherwise such section and this part apply to any communication to or from any person outside the Armed Forces or such components of the Veterans Administration.

§ 1401.03 General rules regarding confidentiality.

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function shall be confidential, may be disclosed only as authorized by this part, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority, whether such proceeding is commenced before or after the effective date of this part.

§ 1401.04 Incompetent or deceased patients.

In any case in which disclosure is authorized with the consent of the patient such consent may be given by a guardian, conservator, or other court appointed designee in the case of an incompetent patient, and by an executor, administrator, or other personal representative in the case of a deceased patient.

§ 1401.05 Security precautions.

(a) Appropriate [illegible] shall be taken for the security of records to which this part applies. The procedures in paragraph (b) of this section set forth examples of such precautions, but these should be added to or may be modified in the light of individual circumstances.

BEST COPY AVAILABLE

(b) The file of each patient maintained in connection with the performance of any drug abuse prevention function should be marked "Confidential Patient Information," as should any record identifying an individual as a drug abuse patient, including photographs, fingerprints, reports of skin abrasions indicating drug use, or other documentation of patient identification.

(c) Each file drawer, cabinet, or other container in which such files are kept should be conspicuously labeled with a cautionary statement such as the following:

CONFIDENTIAL PATIENT INFORMATION

Any unauthorized disclosure is a Federal offense.

§ 1401.06 Extent of disclosure.

Any disclosure made under this part, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

§ 1401.21 Form of consent.

(a) Where disclosure is authorized with the consent of the patient, such consent must, except as otherwise provided, be in writing and signed by the patient. Such consent must state—

(1) The name of the person or organization to whom disclosure is to be made,

(2) The specific type of information to be disclosed, and

(3) The purpose or need for such disclosure.

§ 1401.22 Disclosure to medical personnel.

With the patient's consent, disclosure to medical personnel is authorized for the purposes of diagnosis or treatment. The consent must be in writing and in the form prescribed in § 1401.21. All medical personnel to whom disclosure is made shall be subject to all of the rules on confidentiality as set forth in this part.

§ 1401.23 Disclosure to governmental personnel for purpose of obtaining benefits.

(a) *Benefits generally.* With the written consent of a patient, disclosure is authorized to governmental personnel for the purpose of obtaining benefits to which the patient is entitled. For the purposes of this section, benefits to which a patient is entitled include, but are not limited to, any welfare, medicare, or other public financial assistance authorized by Federal, State or local law, the suspension of prosecution, the granting of probation or parole, public pension or retirement benefits, and any other benefit conferred by lawful authority.

(b) *Veterans benefits.* Disclosure may be made to Veterans Administration personnel for the purpose of determining a patient's eligibility for hospitalization, pension, or other veterans' benefits. For the purpose of this section, Veterans Administration personnel includes any personnel (whether or not employed or compensated by the Veterans Administration) authorized by the Veterans Administration to assist patients in the preparation and submission of their claims.

(c) *Welfare benefits.* Where treatment for drug abuse has been made a condition to the granting or continuation of a welfare or other public benefit, disclosure is authorized to governmental personnel responsible for the administration or determination of such benefits.

(d) *Claims or benefits adjudicated in judicial or administrative proceedings.* In any proceeding before a court, an administrative tribunal, or other governmental body or official having authority to approve or disapprove, or to recommend approval or disapproval, of a claim or other benefit to which a patient is entitled and all or some part of such patient's drug abuse record is relevant and necessary to the determination of such claim or other benefit, such patient may consent to, and authorize the disclosure of such record or portion thereof deemed necessary to support such claim or benefit. When any such disclosure is authorized, the court, administrative tribunal, or other governmental body or official should be alerted as to the need to maintain confidentiality and to avoid, to the extent practicable, any further disclosure of the record or the patient's identification.

§ 1401.24 Disclosure in connection with parole, probation, or suspension of prosecution.

(a) In the case of a drug abuser charged with a criminal offense or who is subject to parole or other probationary action and who has agreed to participate in a drug abuse prevention treatment

program as a condition of release from confinement or as a condition to the dropping, deferral, or suspension of charges or judgment, disclosure of such person's treatment records in connection with such program is authorized if the patient consents in writing to participate in such program and consents to disclosure in accordance with § 1401.21.

(b) Disclosure pursuant to this section shall be limited to the patient's attorney and to governmental personnel having responsibility with respect to the prosecution of the patient or for supervising his probation or parole.

§ 1401.25 Disclosure to legal counsel.

(a) In any situation in which disclosure is permitted with the patient's consent for one or more of the authorized purposes as stated in this part and the patient has secured the advice of legal counsel, disclosure may be made to the patient's attorney upon the written application of the patient endorsed by the attorney.

(b) In any situation in which a patient seeks the advice of legal counsel on the question of waiving confidentiality, disclosure is authorized to the extent necessary to render such advice, if written application for such disclosure is made by the patient and endorsed by the attorney.

§ 1401.26 Evaluation in connection with rehabilitation.

(a) Whenever a patient or former patient has been employed or is seeking employment and such employment is conditioned upon his status or progress in a treatment program, an evaluation of such status or progress by qualified medical personnel may be furnished to responsible employment services, agencies, or employers which have demonstrated their willingness to employ, or assist in the employment of, present or former drug abusers in a drug abuse treatment or rehabilitation program. Such organizations, agencies or employers shall maintain such evaluation as confidential and shall not disclose any part therof to any other person or organization. Any disclosure under this section shall be subject to all of the following conditions:

(1) The request for such an evaluation must be in writing and signed by the patient.

(2) The request must identify the employer (or official therein) cooperating in the patient's rehabilitation program.

(3) The treatment organization must verify the authenticity of the request by telephone or other means of communication and ascertain the extent that the information is need to verify the patient's treatment status.

(4) The information shall be limited to that reasonably necessary in view of the type of employment involved.

(5) No information may be furnished by a treatment organization unless the organization is satisfied on the basis of past experience or other credible information (which may in appropriate cases consist of a written statement by the employer) that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to deny him employment or advancement because of his history of drug abuse.

(6) Information in the nature of a general evaluation of a patient's present or past status in a treatment program may be furnished to members of the patient's family if, in the judgment of a qualified physician or counsellor, such information would be helpful in treatment or rehabilitation of the patient and the patient makes a written request for such information to be furnished.

§ 1401.27 Disclosure for purposes of collecting health or other insurance claims.

A patient who has entered a drug abuse prevention program for diagnosis or treatment may for the purpose of such diagnosis or treatment (including the financing thereof) authorize the disclosure of information contained in his record to the extent necessary to support a claim for payment or reimbursement under a health or other insurance program carried by or in behalf of the patient and under which such patient is a beneficiary or participant. Any such disclosure shall be limited only to information which is directly relevent to, and necessary in support of, a claim for payment or reimbursement under such health or insurance program for the benefit of the patient and any information so disclosed remains subject to all of the restrictions of this part with respect to any further disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITHOUT CONSENT OF PATIENT

§ 1401.41 Disclosure without consent in general.

(a) Disclosure of a patient's records may be made without the consent of the patient and without authority of a court order as follows:

(1) To medical personnel to meet a medical emergency; and

(2) To qualified personnel for purposes of research, audits, or program evaluation.

§ 1401.42 Medical emergency.

Disclosure to medical personnel, either private or governmental, is authorized without the consent of a patient only when necessary to meet a bona fide medical emergency and only to the extent necessary to meet such emergency. For the purposes of this section a bona fide emergency may be considered to exist whenever competent medical authority has determined that the life or health of the patient involved may be impaired and medical treatment without the record could be detrimental to the patient's health. Where, for example, a person is incarcerated and claims to be a patient in a methadone treatment program, this claim may be verified by inquiry to the treatment center administering the program or to a registry such as is referred to in § 1401.43 in order to avoid overdose on the one hand, or the danger of untreated withdrawal on the other.

§ 1401.43 Records maintained in connection with chemotherapeutic treatment.

The communication of information relating to patient identity and dosage between or among programs approved by the Commissioner of Food and Drugs pursuant to § 130.44 of this title, or between such programs and a registry serving them, shall not be considered as a disclosure in violation of section 408(a) of the Act (21 U.S.C. 1175(a)), but any such information received by any such registry shall be fully subject to section 408 of the Act and to the provisions of this part.

§ 1401.44 Research, audits, and program evaluation.

(a) Disclosure without consent is authorized to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. Information so obtained may be used in enforcing lawful requirements imposed with respect to the operation of treatment programs employing controlled substances, but section 408(c) of the Act (21 U.S.C. 1175(c)) specifically prohibits the use of patient records to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient, except as authorized under a court order granted under section 408 (b)(2)(C) (21 U.S.C. 1175(b)(2)(C)). As used in this section, the term "qualified personnel" means persons whose training and experience are appropriate to the nature of the work in which they are engaged, and who are performing such work with adequate administrative safeguards against unauthorized disclosures.

CRIMINAL PENALTIES

§ 1401.51 Penalty for unauthorized disclosure.

Subsection (e) of section 408 of the Act (21 U.S.C. 1175) provides that except as authorized under subsection (b) of that section, any person who discloses the contents of any record referred to in subsection (a) of that section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

§ 1401.61 Relationship of section 408 (b)(2)(C) to other provisions of section 408 and to other legislation generally.

Section 408(b)(2)(C) of the Act (21 U.S.C. 1175(b)(2)(C)) empowers the courts, in appropriate circumstances, to authorize disclosures which would otherwise be prohibited by section 408(a). Both the positioning of this authority in the bill as initially passed by the Senate and the explicit crossreference in section 408(a) of the final Act make clear the congressional intent that section 408 (b)(2)(C) operate as a mechanism for the relief of the 408(a) strictures and not as an affirmative grant of jurisdiction to

authorize disclosures prohibited by other provisions of law or by other Federal or State. By the same token, it should be noted that the authority which section 408(b)(2)(C) of the Act (21 U.S.C. 1175(b)(2)(C)) confers on courts to issue orders authorizing the disclosure of records applies only to records referred to in section 408(a) (21 U.S.C. 1175(a)) — that is, the records maintained by operating treatment or research programs, and not to secondary records generated by the disclosure of the 408(a) records to researchers, auditors, or evaluators pursuant to section 408(b)(2)(B).

§ 1401.62 Scope of orders; relationship to confidentiality provisions of Public Law 91–513.

(a) It is abundantly clear that section 408(b)(2)(C) was not intended to confer jurisdiction on any court to compel disclosure of any information, but solely to authorize such disclosure. An order or provision of an order based on some other authority, or a subpoena, or other appropriate legal process, is required to compel disclosure. To illustrate, if a person who maintains records subject to section 408(a) of the Act is merely requested, or is even served with a subpoena, to disclose information contained therein which is a type whose disclosure is not authorized under section 408 of the Act or any of the foregoing provisions of this part, he must refuse such a request unless, and until, an order is issued under section 408(b)(2)(C). Such an order could authorize, but could not, of its own force, require disclosure. If there were no subpena or other compulsory process, the custodian of the records would have the discretion as to whether to disclose the information sought unless and until disclosure were ordered by means of appropriate legal process, the authority for which would have to be found in some source other than section 408 of the Act. This result is compelled by the language of section 408(b)(2) itself. The words used, "the content of such record may be disclosed * * * if authorized by an appropriate order" are too explicit and too well established as words of art to be interpreted as meaning "the content of such record shall be disclosed if required by an appropriate order."

(b)(1) This interpretation of the permissible scope of a 408(b)(2)(C) order is not only appropriate in the light of the purposes, language, and legislative history of the Act in which it appears, but also is necessary in order to harmonize that section with other legislation dealing with a narrower aspect of the same subject matter. By sections 3(a) and 302(c) of the Comprehensive Drug Abuse Control and Treatment Act of 1970 (42 U.S.C. 242a(a); 21 U.S.C. 872(c)), Congress conferred on the Secretary of Health, Education, and Welfare and on the Attorney General, respectively, power to authorize persons engaged in drug research to withhold names and other identifying characteristics of persons who are the subject of such research, and expressly provided that when such authority has been obtained, its holder may not be compelled to disclose identifying information "in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings * * *."

(2) If section 408 of the 1972 Act were to be interpreted as an independent grant of authority to compel testimony, it would obviously be in direct conflict with the provisions of the 1970 Act discussed above. This becomes significant, for example, in the case of methadone, which for the purpose of treating opiate addiction on a longer-range basis is classified as an experimental drug which may not be administered except in connection with research. Nothing in either the language or the legislative history of the Act indicates any intent on the part of Congress to amend the provisions of the 1970 Act or to reduce the protection which can be afforded under them. Since the language of section 408 permits, if it does not require, a construction which harmonizes with the 1970 Act, it clearly should not be construed to authorize a court order in derogation of any exercise of the authority of the Secretary of Health, Education, and Welfare under section 242a(a) of title 42, United States Code, or the Attorney General under section 872(c) of title 21, United States Code.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

§ 1401.71 Applications for orders should be restricted to records of specified patients.

Section 408(b)(2)(C) empowers courts of competent jurisdiction to authorize disclosure only on a showing of good cause. That section expressly provides that in assessing whether good cause exists, the court must weight the public

interest and the need for disclosure against the injury (a) to the patient, (b) to the physician-patient relationship, and (c) to the treatment services. Because these factors can only be weighted with respect to the particular patient involved, any application for such an order should relate only to the records (or a part thereof) of a specific patient and should include an identification of the patient and an indication whether the application is being made with or without his consent. This conclusion is buttressed by the form of section 408, which appears to have been deliberately cast in terms of the individual patient, e.g. section 408(b)(1), "If the patient * * * gives his written consent * * *," and 408(b)(2), "If the patient * * * does not give his written consent * * *," suggesting an intention that the disclosure order be limited to the records of a particular patient who either did or did not consent to the disclosure.

§ 1401.72 Information which should be furnished in support of application.

In those cases in which an application is not made by or with the consent of the patient, or is not joined in or consented to by the person or organization responsible for the records to which it relates, the Act implicitly requires that such application be supported by adequate information to enable the court to make the following findings:

(a) The nature of the public interest that would be served by granting the application;

(b) Any actual or potential injury, either economic or social, that could result to the patient or to the relationship of the patient to his physician;

(c) The effect that an order of disclosure would have on the administration of the drug-abuse prevention program; and

(d) A clear showing that the interests of the public are substantial in relation to possible injury to the patient or to the patient-physician relationship.

§ 1401.73 Suggested safeguards against unnecessary disclosures.

Section 408(b)(2)(C) implicitly negatives any court order requiring unlimited disclosure when limited disclosure would serve the purpose. It states that "In determining the extent to which any disclosure of all or any part of any record is necessary," the court is required to impose appropriate safeguards against unauthorized disclosure. To facilitate compliance with this requirement, it would be within the intent and spirit of this provision of section 408 that any such court order:

(a) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted;

(b) Limit disclosure to those persons whose need for the information is the basis for the order;

(c) Require, where appropriate, that all information disclosed be held in camera; and

(d) Include any other appropriate measures to keep disclosure to a minimum, consistent with the protection of the patient, the physician-patient relationship and the administration of the drug abuse prevention program.

Exhibit XXX—Report of the Transit Authority Regarding the Transit Authority's Reexamination of the Employability of the Named Plaintiffs dated July 19, 1976

New York Transit Authority

370 Jay Street Brooklyn, New York 11201 Phone 212 330-3431

David L. Yunich
Chairman and
Chief Executive Officer

Lawrence R. Bailey
Leonard Braun
William L. Butcher
Donald H. Elliott
Justin N. Feldman
Harold L. Fisher
Mortimer J. Gleeson
Edwin G. Michaelian
Eben W. Pyne
Constantine Sidamon-Eristoff

Stuart Riedel
General Counsel

July 19, 1976

The Honorable Thomas P. Griesa
United States District Judge
Southern District of New York
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: Beazer v. New York City Transit Authority
72 Civ. 5307

Dear Judge Griesa:

I am transmitting herewith a report received from our Executive Officer in charge of Labor Relations and Personnel regarding the employability of the named plaintiffs, as called for by the Court's judgment.

Very truly yours,

E. W. Summers

Edward W. Summers
Administrative Attorney

cc: Elizabeth B. DuBois
Attorney for plaintiffs

18-67-0130 200M APR.'72 (B.C.)

3102a
Exhibit XXX

COPIES SENT TO

NEW YORK CITY TRANSIT AUTHORITY

FROM: W. B. McLaren, Executive Officer for Labor Relations & Personnel
DATE July 19, 1976
TO: Stuart Riedel, General Counsel

SUBJECT: Reexamination of the Employability of Carl A. Beazer, et al.

I have reexamined, pursuant to the order of the Court in the case of Beazer, et al. v. NYCTA et al., the employability of the plaintiffs Carl A. Beazer, Jose R. Reyes, Francisco Diaz and Malcolm K. Frazier and submit the following conclusions.

CARL A. BEAZER

Mr. Beazer entered the Authority's employ as a car cleaner on May 11, 1960. He was promoted to the position of conductor on March 1, 1961, and on May 15, 1966 was promoted to the position of towerman.

The Authority, in the interests of public safety, medically examines at periodic intervals certain classes of its employees who hold positions that are considered sensitive, including that of towerman. Among other things, a towerman bears sole responsibility for the proper and safe movement of trains over tracks, switches and interlocks that are placed in his charge. He is required to operate complex and sophisticated railroad equipment. As a towerman, Beazer was scheduled for periodic medical examination about the middle of May, 1971, his fifth anniversary as a towerman. At that time, and for about a year prior thereto, the Authority had instituted in connection with the medical examination a program for drug screening. In the case of Beazer, however, he was not examined as scheduled because on April 26, 1971 he entered the Veterans Administration Hospital on East 24th Street, New York City, and remained there until June 7, 1971. Shortly thereafter he asked to be returned to work. Before being allowed to do so, he was medically examined and at that time he told the examining physician that he had been in the hospital for "mental depression." Accordingly, he was referred to the Authority's consulting psychiatrist, Dr. Bernard Pacella, who, on July 15, 1971, reported to the Authority that Beazer appeared physically and neurologically normal and that he denied using drugs. Citing a report from the Veterans Administration Hospital that Beazer was "fully able to return to work," Dr. Pacella recommended that he be returned to duty.

Beazer resumed his duties as a towerman and continued working until August 31, 1971, when a report was received from the Veterans Administration Hospital, in response to a request made to that hospital as early as June 21, 1971, disclosing that Beazer had been undergoing treatment at a methadone maintenance treatment program operated by the hospital because of a 15 year history of heroin dependence. We considered this belated response to be a deliberate effort both by Beazer and the treatment program to conceal his true situation from the Authority, at least until after he had been restored to duty. As to his heroin dependence Beazer's drug history shows he was detoxified five times and returned to the use of narcotic drugs thereafter on each occasion.

Since the use of narcotics and other drugs by employees is prohibited by the rules of the Authority unless authorized by the Authority's medical director, violations of the rule were charged against Mr. Beazer pursuant to Section 75 of the New York State Civil Service Law. After a full adversary hearing, findings were made sustaining the charges and Beazer was dismissed from service effective November 26, 1971.

Despite protestations that his work performance had been satisfactory, the record showed that it had been much less so. He had been disciplined eleven times during his transit service, five of which related to improper performance of duty, including two occasions when acting as a towerman he misrouted a train. Additionally, his attendance record was very poor. By the time he came out of the hospital he had no sick leave time left although his allowed time for his years of service was 144 days. It has been our experience in this and other cases that poor attendance and performance are directly related to an employee's drug habits, including maintenance on methadone.

Surely, an employee who disregards the rules of the Authority prohibiting drug use, which are designed to ensure the safe and efficient operation of the transit system, cannot insulate himself from appropriate discipline by entering a methadone maintenance treatment program. In this case, moreover, it appeared that the employee's decision to do so resulted from the fear of imminent exposure of his drug habits.

Considering, then, the extremely safety sensitive nature of the position of towerman, and Beazer's grave violations of the Authority's drug rules, his poor performance and poor attendance as an employee, we find him to be unsatisfactory for reemployment.

JOSE R. REYES

Mr. Reyes entered the Authority's service in 1968 as a maintainer's helper and was promoted to the position of ventilation and drainage maintainer in 1970. While the latter position is not per se considered as safety sensitive as that of motorman, bus driver, towerman, etc., the proper performance of the duties of the job requires a high degree of alertness and concentration to protect the employee and others from hazards attending the work. Maintainers frequently walk the tracks, where there is train traffic and an adjacent third rail, in order to get to work areas where inspections and repairs are made, including the maintenance and repair of pumps and related machinery. For safety reasons they work in pairs but in the day time frequently work alone. We have had several fatalities in recent years.

Reyes was sent by his department on October 12, 1971 for a medical examination due to excessive absenteeism. Urinalysis showed positive for quinine, which, absent any other satisfactory explanation, is medically suggestive of heroin use. He was examined clinically on November 1, 1971 and evidenced irritation of both nares which the medical examiner attributed to the use of hard drugs. A second urinalysis showed the presence of methadone. On being questioned concerning the matter, Reyes first stated that he had taken one of his brother's methadone tablets by mistake, but upon being questioned further, said he had been participating in the methadone maintenance treatment program at St. Clare's Hospital since 1971 and had started using heroin in 1968.

The record in this case discloses that Reyes had in the past used hard drugs such as cocaine and LSD, as well as heroin. He was charged, pursuant to Section 75 of the State Civil Service Law, with using narcotic drugs including heroin, in violation of the Authority's rules. After a hearing, the charges were sustained and Reyes' employment terminated effective January 20, 1972. As with Beazer, we cannot be expected to condone rule violations of this kind, consistently with our responsibilities to the public.

It is also not without significance that Reyes had an extremely bad record, which the hearing officer took note of. For instance, in 1970 he was absent for 27 days, not including 10 vacation days, and in 1971 he was absent for 18 days, again not including a 10 day vacation. His performance record, additionally, showed two prior disciplinary hearings during his less than four years service, including one in 1969 for drinking alcoholic

beverages on the job, and a second in 1970 for his poor attendance up to that time. Such a record convinces me that Reyes is not suitable for reemployment with the Transit Authority. The nature of the job involved, his prior disciplinary history, rule violations, poor past performance and attendance all make him unsatisfactory for reemployment.

The correlation between drug use by an employee, including methadone maintenance, and poor attendance is additionally exemplified in the case of Vannie A. Smith, a conductor, whose disciplinary hearing the plaintiff's attorney sought to halt by motion in this case. Smith's record showed both heroin use and later participation in a methadone maintenance treatment program during his employment, and his record also showed extremely bad attendance. He accumulated 54 cautions for attendance violations, 12 warnings, and had 6 disciplinary hearings for the same reason. Why he lasted so long is not clear. As indicated earlier, our experiences in these cases and others tells us that drug use, including maintenance on methadone, has a substantial correlation with an employee's poor attendance and performance.

FRANCISCO DIAZ

Mr. Diaz was found unacceptable in 1970 for TA employment as a maintainer's helper D (sheet metal worker) because he was a participant in a methadone maintenance treatment program. The program was sponsored by the Bernstein Institute of the Beth Israel Medical Center. No further inquiries were made at that time regarding his employability. We have now undertaken a plenary review of his present employability and find that under general TA standards he is not suitable for transit employment. In particular, his drug history, including a conviction for a drug related offense, and a recent poor employment record warrant this conclusion.

Diaz has a history of using heroin for about 18 years starting when he was 15 years of age. During that period he was convicted once for possession of a hypodermic needle and four times was unsuccessful in seeking to break away from his addiction. While there appears to be a period of about 11 years between 1960 and 1971 when he had steady employment, his record over the past 5 years is considered poor having been out of work for about 2 1/2 years and having had 4 employers in the remaining 2 1/2 years. We consider this background leaves much to be desired especially since under the Civil Service Law of this State, we may and do select employees on a comparative basis choosing the best one of three eligible candidates.

Moreover, the records of Diaz' methadone maintenance treatment program, insofar as they are available, are disturbing. While no relapses appear after he joined the Beth Israel program in 1968, except a somewhat minor one, there are nurses notes covering a period of about 2 1/2 years or more during the years of 1971, 1972 and 1973 when the program felt that Mr. Diaz was abusing alcohol. The program's explanation of these notes, in effect that they did not really mean what they purported to mean, is hardly reassuring to a prospective employer.

Diaz now tells us that he recently ended his participation in methadone maintenance. We wrote to his program on June 4, 1976, asking to see his records. When no response was made other than that the Director of the program was on vacation, we followed up with a reminder on June 30, but have not received a response to date.

We also sought an evaluation of the program from the Office of Drug Abuse Services which is the official State monitor of methadone maintenance treatment programs. We asked on June 9 for the evaluation but only after sending a written reminder on July 8, did we receive a brief letter response on July 12, saying that the program was in general compliance with existing regulations and was still licensed. No significant information was made available to us although the letter stated that inspections of the program had recently been made and that reports thereof were in existence. From an employer's viewpoint, this lack of cooperation in eliciting information from the program directly or from official sources deprives the employer of a complete view of the candidate's background.

Considering all the circumstances and the candidate's personal history, we do not find Diaz to be an acceptable risk nor does he measure up to the overall standards of employment which are maintained by the TA and which are applied evenly across the board. For these reasons we do not consider him to be employable by us.

MALCOLM FRAZIER

The Manhattan and Bronx Surface Transit Operating Authority has had three prior employment contacts with Mr. Frazier. The first was in February 1971 when he applied for appointment as a bus driver. Although he was then a heroin addict his medical questionnaire did not reveal it. He checked "no" to the question whether he had been "treated" for drug addiction. Since the Authority was

not screening for drug use at that time his addiction went undetected.

Also on that occasion the candidate represented that he possessed an operator's license, although a check with the Motor Vehicle Bureau disclosed his license had been suspended on January 14, 1971 for his failure to answer a summons for a moving violation. When the Authority learned of the suspension it informed the applicant that he would not be appointed because of this falsification. Although Mr. Frazier later denied knowing of the suspension at the time he filled out the questionnaire, there was at least a lack of candor, especially troubling in the context of hiring a person to operate buses in public transportation.

In this connection we also note, as was learned later, that Mr. Frazier had obtained his license by falsely stating on his application to the Motor Vehicle Bureau that he had never been confined or treated for narcotic addiction.

Mr. Frazier's use of heroin commenced in 1969 and according to himself he tried several times, unsuccessfully, to break the habit, including two hospital confinements for detoxification purposes, after each of which he reverted to heroin use. In October 1972 he entered a methadone maintenance treatment program sponsored by the Mary Scranton Foundation and claims to have successfully detoxified himself by March 1973 and thereafter was drug free.

In February 1973 Mr. Frazier applied a second time for appointment as a bus driver. In the meantime he had been convicted in April 1971 of possessing heroin. On this second occasion he stated that he had joined a methadone maintenance treatment program.

Nevertheless, considering his history, our prior experience with him and the nature of the job sought, he was not considered for appointment. It may be noted here that in the following year, 1974, the New York Legislature enacted special requirements, including biennial medical examinations, for bus drivers aimed at promoting public safety (Vehicle and Traffic Law, Art. 19-A).

Again in April 1973 Frazier applied for appointment as a bus cleaner, at which time he said he had been successfully detoxified and was not then participating in a methadone maintenance program. However, by that time he was not considered acceptable for employment in any position.

Although Mr. Frazier's recent screening for drug use showed negative and his clinical examination was unremarkable we consider the reasons for denying him employment in 1973 to be still valid today.

As in the case of Diaz, we received no response whatever from the programs with which Mr. Frazier was involved, nor any helpful information from the Office of Drug Abuse Services. On the whole, we consider Mr. Frazier to be unacceptable for transit employment.

Dated: July 19, 1976

/s/ W. B. McLaren
Executive Officer, Labor
Relations and Personnel

Exhibit AAAA—List of Persons Produced by the Transit Authority Pursuant to the Court's Order dated July 19, 1976

E AAAA A. E. D'Ambrose

October 29, 1976

The Honorable Thomas P. Griesa
United States District Judge
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: Beazer, et al. v. N.Y.C.T.A., et al.,
(72 Civ 5307)

Dear Judge Griesa:

The three enclosures list alphabetically all persons who were either refused employment or dismissed by the Transit Authority and the Operating Authority since the inception of the Authorities' drug screening programs in early 1970. It was found easier to do it this way than start with the December 15, 1972 date.

The column marked "FINDINGS" indicates the medical findings as to present or past drug use based on history, clinical examination or urinalysis. The column headed "ADM." indicates whether the person involved admitted such use and the last column, "PROG.", whether or not the Authority was aware at the time action was taken that such person was either a present or past participant in a methadone maintenance treatment program. Where an asterisk appears, it means that there was some uncertainty about the kind of program involved.

Very truly yours,

Edward W. Summers
Administrative Attorney

cc: Elizabeth B. DuBois

EWS:mk

3110a
Exhibit AAAA

A. E. D'Ambrose
Mankiewicz

October 29, 1976

The Honorable Thomas P. Griesa
United States District Judge
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: Beazer, et al. v. N.Y.C.T.A., et al.,
(72 Civ 5307)

Dear Judge Griesa:

The three enclosures list alphabetically all persons who were either refused employment or dismissed by the Transit Authority and the Operating Authority since the inception of the Authorities' drug screening programs in early 1970. It was found easier to do it this way than start with the December 15, 1972 date.

The column marked "FINDINGS" indicates the medical findings as to present or past drug use based on history, clinical examination or urinalysis. The column headed "ADM." indicates whether the person involved admitted such use and the last column, "PROG.", whether or not the Authority was aware at the time action was taken that such person was either a present or past participant in a methadone maintenance treatment program. Where an asterisk appears, it means that there was some uncertainty about the kind of program involved.

Very truly yours,

Edward W. Summers
Administrative Attorney

cc: Elizabeth B. DuBois

EWS:mk

BEST COPY AVAILABLE

3111a
Exhibit AAAA

APPLICANTS - OA

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
8/14/73	Caravello, A.	BO	Meth.	Yes	Yes
7/16/73	Bennett, J.	BO	No	Yes	Yes
4/2/74	Dixon, W.	BO	Darvon-Meth.	No	No
6/28/73	Giommetti, P.	BO	Meth.	No	No
6/4/74	Hall, T.	Bus Clean.	Meth.	Yes	No
3/7/73	Herman, M.	BO	Meth.	No	No
7/12/73	Highland, J.	BO	Meth.	Yes	No
1/14/74	Lewis, R.	BO	Meth.	No	No
7/25/73	Lupia, R.	BO	Meth.	No	Yes
3/25/74	Mastroianni, S.	BO	Meth.-Quaalude	No	No
10/21/74	Medina, J.	BO	Meth.	No	No
10/1/73	Nunno, M.	BO	Meth.-Quaalude	Yes	Yes
7/9/73	Reed, L.	---	Morph.-Quinine-Meth.	---	---
7/16/73	Rivera, H.	BO	Meth.	No	Yes
6/4/73	Taylor, T.	BO	Meth.	No	No
8/7/73	Williams, J.	BO	Meth.	No	No
6/24/74	Williams, K.	BO	No	Yes	Yes*

EMPLOYEES - OA

6/13/72	Lopez, H.	BO	Morph.-Quinine	No	No
5/16/75	Rothenberg, A.	Mtr. Help.	Meth.	Yes	Yes

*Participation in MMTP not certain

3112a
Exhibit AAAA

1

EMPLOYEES TA

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
1-10-72	Aiken, Harold	MHA	Quinine	Yes	--
9-21-71	Adams, Douglas	Clerk	Meth.-Morp.	Yes	--
11-3-71	Akins, James	Trk.	Morp.-Quin.	--	--
1-19-76	Albert, Firman	Ceta-RRPC.	Trackmarks	--	--
9-23-71	Allen, Lucius	MM	Quinine	--	--
6-12-70	Alston, Walter	Trk.	Quin.-Morp.	Yes	--
9-28-72	Anselmo, Charles	Helper	Barb.	Yes	--
10-7-71	Anderson, Henry	MHB	Quin.	--	--
2-4-76	Aponte, Hector	TPO	Meth.	--	--
10-3-75	Aponte, Joseph	MHA	Morp.-Quin.	--	--
8-20-71	Arce, Eziah	MHA	Meth.	Yes	Yes
12-2-71	Armstrong, John	MM	Morp.-Quin.	Yes	--
2-13-76	Arroyo, Cecilio	BO	Meth.	--	--
2-24-70	Austin, Charles	C/R	Morp.-Quin.	--	--
6-21-73	Barnes, Willie	RRP.	Meth.	Yes	Yes
9-17-75	Baskerville, Errol	BO	Coc.-Peno.	Yes	--
9-1-71	Beazer, Carl	TOW.	Heroin-Meth.	Yes	Yes
5-25-71	Bentley, Clifton	C/R	Quinine	Yes	--
5-28-71	Betancourt, Candido	Shop Clk.	Quin.-Morp.	--	--
4-18-73	Blount, Justin	C/R	Quin.-Meth.	--	--
12-7-71	Boune, Edward	TPO	Quinine	Yes	--
3-18-72	Booth, Patrellis	RRC	Coc.-Meth.	Yes	--
2-24-71	Bernard, B.	PO	Unknown	--	--
12-17-71	Bowden, Barco	RRC	Quinine	--	--
9-9-71	Bowen, Alonzo	Shop Clk.	Trackmarks	Yes	Yes
9-16-72	Bradley, Bruce	Trk.	Quinine	Yes	--
9-2-71	Branch, Allen	RRC	Morp.	Yes	--
3-19-74	Brown, Curtis	BO	Morp.-Quin.	--	--
11-13-72	Brown, Dock	Trk.	Morp.-Quin.	--	--
3- 69	Brown, Donald	C/R	Quinine	--	--
8 10-72	Brown, John	MHA	Quinine	Yes	--
11-18-72	Brown, Johnson	C/R	Morp.-Quin.	--	--
8-6-76	Borrison, I.	C/R	Cocaine	Yes	--
1-4-72	Carter, Julian	RRP.	Quinine	Yes	--
12-13-71	Cawthorne, Jame	Trk.	Quinine	Yes	--
5-23-75	Christiani, Donen	BO	Meth.	--	--
10-1-70	Clacher, Thomas	Shop Clk.	Coc.-Morp.	--	--
5-11-70	Clark, Errol	Sen. Clk.	Heroin	--	Yes
9-8-71	Colon, Vivian	Typ.		Yes	--
3-4-71	Cordovano, Joe	Trk.	Morp.-Quin.	Yes	--
6-23-72	Covington, Ber.	BO	Meth.	Yes	--
1-31 2	Covington, George	C/R	Quinine	--	--
8-25-72	Croskey, Harry	RRP	Barb.-Pheno.	Yes	--
3-26-71	Cuzzo, Vincent	C/R	Meth.	Yes	Yes

EMPLOYEES

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
3-24-71	Dallam, William	MHC	Morp.-Quin.	Yes	--
10-5-71	D'Ambrosio, Angelo	RRW	--	--	--
4-17-72	Daniels, Freddie	C/R	Quinine	--	--
3-16-72	Daniels, Willie	RRW	Quinine	Yes	--
1-11-72	David, William	BO	Quinine	Yes	--
6-30-76	Davis, John	Tkm.	Morp.	--	--
11-8-71	Davis, Lawrence	BO	Morp.-Quin.	Yes	--
8-19-71	Davis, William	RRP	Quinine	Yes	Yes
10-15-75	Dauoren, Gregory	MHD	Morp.-Quin.-Meth.	Yes	--
12-8-71	Dawson, Donald	C/R	Quin-Coc-Meth.	Yes	--
8-1-74	Deas, Edmund	RRP	Meth.	Yes	Yes
4-1-75	Deeker, Robert	BO	Meth.	--	--
10-31-72	Domino, Jonathan	RRW	Barb	--	--
4-14-71	Dowling, Vincent	RRW	Quinine	--	--
5-20-71	Downes, Michael	MHA	History	Yes	Yes
7-15-76	Edgehill, Carton	RRC	Quin-Morp-Meth.	--	--
1-12-73	Edwards, Walter	BO	Morp-Quin-Meth.	Yes	--
3-26-71	Eley, Bennie	C/R	Quinine	--	--
8-28-70	Epps, Donald	MHC	Quin-Morp.	--	--
9-27-73	Farrar, Ronald	MM	Meth.	--	--
5-15-73	Fincher, Odel	RRC	Morp.-Quin.	Yes	--
3-29-72	Ford, Lana	Typ.	Quinine	Yes	--
6-1-72	Foy, Lustos	RRP	Morp.-Quin.	Yes	--
1-14-71	Frazer, Harold	RRC	Quinine	Yes	--
7-2-73	Frederick, James	C/R	Quin.-Meth.	--	--
2-23-71	Freeman, Frank	C/R	Quinine	--	--
6-8-72	Frost, Randolph	Trk.	Morp.-Quin.	--	--
5-28-71	Fryar, Robert	CC	Quinine	Yes	--
11-26-71	Fulford, Ronald	MHA	Morp.-Quin.	Yes	--
1-7-72	Gamble, Forrest	RRC	Morp.-Quin.	--	--
12-20-72	Genaro, Santos	Trk.	Trackmarks	Yes	--
3-31-72	Gholson, John	RRP	Morp.-Quin.	Yes	--
1-8-73	Glover, Deborah	Co-op Train.	Quinine	Yes	--
9-23-73	Green, Robert	Trk.	Morp.-Quin.	--	--
7-16-71	Gregory, William	MHC	Morp-Quin-Meth.	Yes	--
11-24-76	Griffith, Ronald	BO	Coc-Quin.	Yes	--
2-5-71	Grimes, Norman	Trk.	Quinine	--	--
1-21-76	Gutierez, Alfred	RRPC	History	Yes	Yes
2-11-72	Guzman, Felix	MHB	Morp.	Yes	--
5-2-75	Hall, Albert	CC	Trackmarks	Yes	--
2-20-73	Hall, Robert	MM	Quin-Morp-Meth.	Yes	--
7-1-70	Hampton, Franklin	C/R	Trackmarks	Yes	--
8-30-76	Harper, Kenneth	TPO	Coc-Quin.	--	--
6-8-71	Harris, John	CC	Quin.	--	--

EMPLOYEES

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
10-27-72	Hathaway, Alfonso	C/R		Yes	--
9-22-71	Hayes, Joseph	C/R	Quin-Morp.	--	--
11-10-72	Hehman, John	AEE	Barb.	--	--
4-7-70	Heyward, R.	BO	--	Yes	--
6-25-71	Henderson, D.	CASH	--	--	--
9-11-73	Highsmith, A.	CLK.	Quinine	Yes	--
6-1-71	Houston, C.	RRC	Quinine	Yes	--
7-5-72	Howard, J.	C/R	Trackmarks	--	--
12-7-71	Hunter, C.	CLK.	Quinine	Yes	--
5-31-72	Jacks, Harold	TPO	Morp-Quin-Meth.	--	--
8-3-72	James, Robert	C/R	Quinine	--	--
8-24-72	Janis, Wallace	C/R	Meth.	--	--
11-21-74	Jenkins, Fred	CI	Meth.	Yes	Yes
9-1-70	Johnson, Bennie	BO	Quin-Morp.	--	--
3-8-72	Johnson, David	RRW	Morp-Quin.	--	--
2-18-70	Johnson, Timothy	RRW	Quinine	--	--
2-21-74	Johnson, Willie	MM	Morp-Quin.	--	--
6-25-73	Johnson, William	MM	Trackmarks	--	--
12-27-72	Jones, Franklin	RRC	Quinine	--	--
4-12-73	Jones, John	RRP	Morp-Quin.	Yes	--
9-24-70	Jones, R.	RRP	Morp.	Yes	--
4-2-71	Jones, W.	TRK.	Quin-Morp.	--	--
2-11-76	Kee, Ronald	C/R	Quinine	Yes	--
6-5-74	Kidd, Samuel	MM	Quinine	Yes	--
5-26-71	Knowles, Donald	S. CLK.	Quinine	Yes	--
3-19-74	Koochagian, Gary	MHB	Meth.	--	--
5-11-72	Lasco, Andrew	MHB	Meth.	Yes	--
7-14-71	Lee, Norman	MM	Morp-Quin.	--	--
6-16-70	Leff, Norman	BO	Quin.	--	--
4-28-76	Lessen, John	SIG. HELP.	Amp-Phen-Meth.	Yes	--
7-22-71	Lewis, John	MM	Morp-Quin-Meth.	Yes	Yes
11-30-70	Lewis, Willie	C/R	Trackmarks	Yes	--
12-30-71	Lipford, Edward	BO	Morp-Quin.	--	--
8-24-72	Little, N.	C/R	Meth.	Yes	--
10-9-72	Llamas, Ray	BO	Meth.	--	--
2-28-73	Lloyd-Bey, C.	BO	Cocaine	--	--
12-7-71	Long, Daniel	RRC	Morp-Quin.	Yes	--
5-7-71	Longabucco, Anthony	MHD	Quinine	--	--
2-10-71	Lopez, Antonio	TPO	Pheno.	--	--
9-1-71	Lopez, Peter	BO	Quin.	Yes	--
3-10-72	Lyles, T.	MHD	Quin-Pheno-Morp.	Yes	--
7-29-71	Lyons, Gerald	MHA	Morp-Quin.	Yes	--
6-2-76 1-11-72	Maddox, Isiah	BO	Quinine	--	--
3-12-71	Manigault, Arthur	RRC	Quin-Morp.	Yes	--
1-8-74	Manning, Rodney	RRC	Quin-Morp.	Yes	--

EMPLOYEES

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
8-31-71	Marshall, Wathford	RRP	Quinine	Yes	--
5-22-72	Martin, Donald	C/R	Quinine	Yes	--
10-4-71	Masdeu, H.	TK	Cocaine	--	--
11-6-70	Mason, David	RRP	Quin.-Morp.	Yes	--
3-17-72	Matos, Fernado	RRC	Meth.	Yes	--
3-29-71	McCrimmon, Winfold	SM	Meth.-Heroin	Yes	Yes
2-7-74	McDonald, Laverte	RRC	Quin.	Yes	--
2-23-72	McFarlin, Terry	C/R	Morp.-Quin.	Yes	--
3-12-71	McKinney, John	TPO	Quin.-Morp.	--	--
2-9-72	Medind, Jesus	TK.	Quin.-Morp.	--	--
4-19-72	McIntyre, Leon	MM	Quin.-Morp.	Yes	--
3-16-72	Meikle, Gary	RRC	Quin.-Morp	Yes	--
1-19-73	Metcalf, Andrea	Sten.	Quinine	Yes	--
7-10-72	Middleton, Herbert	C/R	Amp.	Yes	--
9-20-71	Mitchell, Gerald	MHC	Quinine	Yes	--
2-18-71	Mole, Joseph	RRP	Quinine	Yes	--
3-16-73	Molnar, William	RRC	Barb.	Yes	--
11-16-70	Monsanto, Charles	TK.	Trackmarks	Yes	--
7-17-72	Moore, Herbert	MHA	Quinine	Yes	--
9-21-71	Morgan, Gianville	MHA	Morp.-Quin	Yes	--
9-17-71	Morgan, Sidney	C/R	Quinine	-	--
6-9-71	Mott, Garfield	C/R	Morp-Quin	Yes	--
12-12-74	Mullen, Claude	RRC	Quinine	Yes	--
4-6-76	Navarro, Juan	CETA	Meth.	Yes	--
9-2-71	Nelson, Charles	C/R	Morp-Quin.	-	--
8-19-74	Nero, Joseph	C/R	Quinine	Yes	--
12-28-71	Ore, Nathaniel	BO	Quin-Meth	-	--
11-16-72	Ortiz, Jose	RRP	Quin-Meth	Yes	--
12-17-71	Patterson, Ricardo	RRP	Quin	-	--
8-2-73	Pearson, Cecil	MM	Cocaine	Yes	--
8-3-72	Pearson, Horace	TK	Quinine	Yes	--
10-21-71	Pearson, Jeanette	RRC	Quinine	-	--
6-30-72	Peitter, Joseph	CC	Quinine	-	--
9-2-71	Perez, John	BMA	Morp-Quin	Yes	--
9-21-76	Pitman, Clarence	C/R	Morp-Quin	Yes	--
7-10-72	Pyle, Evelyn	RRC	Morp.-Quin.	Yes	--
1-30-75	Reed, James	C/R	Quinine	Yes	--
10-12-71	Reyes, Jose	V&D	Meth.	Yes	Yes
12-1-75	Richardson, Coy	BO	Morp.-Quin.-Meth.	Yes	--
5-24-71	Roberts, John	C/R	Quinine	Yes	--
11-5-71	Robinson, Harry	SIG. MTR.	Morp.-Quin.	Yes	--
8-16-71	Rodriguez, Jose	BO	Morp.-Meth.	Yes	--
9-14-76	Rouse, Clayton	MHA	Quinine	Yes	--

EMPLOYEES

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
7-14-70	Rogers, Ronald	BO	Quin.-Morp.	--	--
6-27-72	Rudizel, Howard	PDM	Morp.-Quin.	Yes	--
4-28-71	Russell, Arthur	TRK	Quin.-Morp.	Yes	--
6-15-72	Russell, Celeste	CK	Quin.-Pheno.	Yes	--
4-22-71	Russo, Gary	P. TRAIN.	Marijuana	Yes	--
1-4-72	Salmond, Herbert	TRK.	Morp.-Quin.	--	--
8-10-71	Sanders, Arthur	C/R	--	Yes	--
10-10-73	Santillo, Carmine	STR. FIRE.	Meth.	--	--
8-1-72	Sawyer, William	C/R	Coc.-Quin.	--	--
2-15-73	Scott, Willie	RRC	Quinine	--	--
7-12-76	Sealy, Lawrence	TRK.	Quinine	Yes	--
11-12-71	Sellers, Isac	BO	Quinine	Yes	--
7-11-72	Sills, Nathaniel	RRC	Phen-Quin-Meth.	Yes	--
4-8-75	Smith, Byron	RRP	Morp-Quin.	Yes	--
9-20-72	Smith, David	RRP	Meth.	Yes	--
5-14-70	Smith, Rufus	CC	Morp-Quin.	Yes	--
8-17-73	Smith, Vannie	C/R	Meth.	Yes	Yes ✓
4-26-71	Spotwood, William	TK.	Heroin-Quin.	Yes	--
12-10-75	Spruils, Adrena	TYP.	Meth.	--	--
11-20-70	Stewart, Leroy	RRP	Quinine	Yes	--
10-16-70	Stewart, William	RR CARE.	Quin.-Morp.	--	--
10-1-76	Steptoe, Larry	RRC.	Morp-Quin-Meth.	--	--
3-30-71	Sutherland, Cecil	SM	Quinine	Yes	--
8-18-71	Taylor, David	CC	Morp.-Quin.	--	--
1-11-72	Thomas, Herman	MHA	Morp.-Quin.	Yes	--
7-23-71	Thompson, Essie	RRC	Meth.	Yes	Yes* ✓
3-26-75	Thompson, Ronald	SMH	Quinine	Yes	--
12-15-72	Toussant, Harold	MM	Coc-Quin-Meth.	Yes	--
9-21-72	Tripodo, Joseph	ELEC. HLPR.	Barb.	--	--
12-26-72	Tucker, Raymond	TK.	Cocaine	Yes	--
6-29-72	Turner, Joseph	BO	Morp.-Quin.	--	--
1-15-76	Tuttle, John	BO	Coc.-Pento.	--	--
3-7-72	Van Petten, Gerald	RRP	Morp.-Quin.	--	--
2-2-73	Viglione, John	CC	Pheno.	--	--
2-15-72	Violano, John	MHA	Heroin	Yes	--
7-29-71	Waddell, Larrell	C/R	Quinine	--	--
10-17-72	Walker, John	TM HLPR.	Quinine	Yes	--
3-8-71	Walls, Anthony	MHC	Quin.-Morp.	Yes	--
5-11-72	Washington, Franklin	RRP	Quin.-Morp.	Yes	--
2-4-71	Washington, James	TPO	Quin.-Morp.	Yes	--
10-17-72	Wells, Marion	RRC	Quinine	--	--
9-28-72	Weidner, George	PMB	Barb.	Yes	--
9-27-71	Williams, Kerry	BO	Morp.-Quin-Meth.	Yes	--
11-6-72	Wingate, Charles	BO	Quinine	Yes	--

3117a
Exhibit AAAA
6

EMPLOYEES

DATE EXAM.	NAME	TITLE	FINDINGS	ADM.	PROG.
9-22-71	Winston, Kenneth	MHD	Morp.-Meth.	Yes	--
3-31-72	Woodard, Melvin	CC	Morp.-Quin.	--	--
3-2-76	Wright, Nathaniel	CMC	Meth.	Yes	Yes ✓
12-31-71	Yearwood, Leslie	C/R	Quinine	--	--
4-14-72	Young, Rufus	BO	Quinine	Yes	--
Additions					
10-18-76	Tapp, Bruce	T/m	meth	yes	No.
11-8-76	Carr Willis	Tow/m	Morph-Quinine	No	No

Participation in Methadone Maintenance Program uncertain.

3118a

Exhibit AAAA

APPLICANTS

Exam. Date	Name	Title	Findings	Admitted	Pro
5-12-71	Abraham, Vincent	Conductor	Quinine	No	No
11-7-71	Acevedo, Mf.	Conductor	Quinine	No	No
4-25-72	Actisando, R.	Maintainer's Helper-D	Quinine	No	No
8-24-71	Adamec, Alan	Jr. Architect	Quinine	No	No
7-17-73	Agro, Joseph	RR Porter	Quinine	No	No
3-21-76	Alzoser, L.	Patrolman	Quinine	No	No
8-17-72	Allen, Benjamin	RR Clerk	Phenothiazine	No	No
5-31-71	Allen, Calvin	RR Porter	Quinine	Yes	No
1-20-76	Allen, Frederick	Maintainer's Helper-C	Quinine	No	No
1-27-71	Alvarado, Antonio	Trackman	Methadone	Yes	No
8-21-73	Anderson, D.	RR Porter	Pheno-Quinine	NO	No
5-22-73	Anderson, J.	Conductor	Quinine	No	No
1-18-73	Anderson, Thomas	Maintainer's Helper-D	Quinine	No	No
11-29-71	Artis, George	Sig. Mtr's Helper	Pheno	No	No
7-2-71	Asher, Robert	Bus Operator	Quinine	Yes	No
5-31-73	Attaway, Ware	Bus Operator	Quinine	No	No
3-1-73	Averkiou, Avery	Eng. Tech. Trainee	Quinine Phenothiazine	No	No
9-3-74	Baccarella, Phillip	Bus Operator	Quinine	No	No
11-22-72	Bailey, Joyce	Railroad Clerk	Amphetaminex	No	No
2-3-72	Baker, Irving	Railroad Watchman	Quinine	No	No
7-30-73	Baker, William	Trackman	Quinine	No	No
8-6-71	Baldwin, Nora	RR Clerk	Quinine	No	No
6-21-72	Baldwin, Robert	RR Clerk	Darvon	No	No
7-16-74	Ball, Thomas	Structure Mtr.	Morphine Admit Skining 3 yrs. ago	Yes	No
7-25-73	Barba, Athony	Bus Operator	Quinine	No	No
8-12-70	Barfield, Warren	Maintainer's Helper-B	Using Drugs	Yes	No
3-29-72	Barnes, Kurt	Bus Operator	Using Drugs	Yes	No
1-3-72	Barneff, James	Off. Appliance Oper.	Quinine	No	No
10-25-73	Barr, Errol	Mtr's Helper-B	Darvon	No	No
2-28-74	Battle, Reginald	Conductor	Heroin	Yes	No
11-8-73	Battle, Vaughn	RR Porter	Quinine Admit	No	No
11-20-70	Bell, John	RR Porter	Using Drugs-Morphine	Yes	No
7-27-76	Bell, Melvin	Bus Operator	Quinine Methadone	No	No
4-29-71	Bell, Mathew	RR Clerk	Quinine	No	No
9-9-74	Bell, William	Patrolman	Quinine Amphetamine	No	No
9-19-74	Benecke, Walter	Trackman	Quinine Methadone	No	No
6-16-72	Bergman, Helene	Asst. Budget Exam.	Quinine	No	No
8-23-73	Berry, Sylvester	Trackman	Methadone	Yes	Yes
8-20-73	Bethea, Alexander	RR Porter	Pheno	No	No
6-1-73	Bingtock, Stephen	Bus Operator	Pheno Dilantin	No	No
12-7-73	Blakey, Martin	Clerk	Methadone	Yes	Yes
6-18-71	Boatwright, A.	Bus Operator	Possession Narcotic	No	No
5-5-71	Boatwight, K.	Bus Operator	Quinine	Yes	No
6-13-72	Bodkin, Betty	Typist	Quinine	No	No

Exhibit AAAA

APPLICANTS

Exam. Date	Name	Title	Findings	Admitted	Prog.
7-30-74	Boehl, Karl	Str. Mtr.	Quinine	No	No
6-20-73	Bolden, Marie	Tel. Operator	Track marks	No	No
5-4-73	Bolling, Margetta	Typist	Track marks	No	No
5-3-72	Bonnick, Frank	Mtr.'s Helper-Group B	Quinine	No	No
10-15-74	Booker, Earl	Conductor	Quinine	No	No
6-11-74	Borden, George	Bus Operator	Sniffing heroin	Yes	No
6-8-73	Borowski, Leonard	Bus Operator	Methadone	Yes	Yes
4-27-71	Boswell, Hosie	Bus Operator	Quinine	Yes	No
5-24-73	Bourne, Arthur	Railroad Porter	Quinine	No	No
3-22-72	Bousgnth, N.	Patrolman	Quinine	No	No
10-11-72	Bowen, Darryl	Clerk	Methadone	Yes	No
1-28-72	Benjamin, Leroy	Railroad Clerk	Track marks	No	No
6-15-71	Bowles, Stephen	Mtr's Helper-Group C	Using drugs	Yes	No
7-2-74	Braccia, Anthony	Mtr's Helper-Group B	Using drugs	Yes	No
9-10-73	Braithwaite, D.	Bus Operator	Quaalude	Yes	No
12-21-72	Branch, Allen	Railroad Clerk	Using drugs	Yes	No
7-9-74	Braithwaite, E.	Conductor	Quinine	No	No
11-18-71	Brewer, Leonard	Conductor	Quinine	No	No
6-20-72	Brice, Arva	Railroad Clerk	Morphine, Quinine, methadone	Yes	No
11-18-71	Broady, Clifton	Conductor	Quinine	No	No
9-16-74	Brooks, Williams	Patrolman	Quinine	No	No
1-3-72	Brothers, Floyd	Bus Operator	Quinine	No	No
1-3-71	Brown, Donald	Shop Clerk	Taking drugs	Yes	No
7-27-70	Brown, Harold	Maintainer's Helper-Group A	Taking drugs	Yes	No
4-27-72	Brown, Harold	Trackman	Quinine	Yes	No
8-29-73	Brown, Leonard	Bus Operator	Morphine, Quinine	No	No
6-17-71	Brown, Nathaniel	Bus Operator	Quinine, amphetamine	Yes	No
4-27-71	Brown, Robert	Bus Operator	Quinine, morphine	No	No
11-8-72	Brown, Robert	Railroad Porter	Barbituates	No	No
2-25-70	Browne, Sidney	Car Maintainer-Group A	Using drugs	Yes	No
1-26-71	Browning, Jerry	Bus Operator	Using drug, heroin	Yes	Yes
3-6-74	Bruce, N.	Railroad Porter	Dilantin, Quinine	No	No
1-10-74	Brunson, John	Bus Operator	Morphine	No	No
7-24-71	Bunn, Howard	Clerk	Using drugs	Yes	No
7-14-71	Bureh, Leroy	Railroad Clerk	Using heroin	Yes	No
9-9-74	Burch, R.	Patrolman	Quinine	No	No
5-2-74	Burns, Celinda	Typist	Using drugs	No	No
3-21-72	Butler, Robert	Clerk (Trainee)	Quinine	No	No
11-19-71	Butler, Ronald	Signal Maintainer	Using drugs	Yes	No
12-1-70	Butis, Milton	Maintainer's Helper-Group A	Using drugs	Yes	No
2-2-72	Byars, Linwood	Bus Operator	Using heroin, pento	Yes	No
5-24-73	Bynes, Willie	Railroad Clerk	Quinine	No	No
5-11-71	Byrd, Joe	Conductor	Morphine, Quinine	No	No
10-19-72	Calabrese, S.	Police Trainee	Using drugs, LSD	Yes	No
9-16-74	Calderon, R.	Railroad Porter	Quinine	No	No

3120a

Exhibit AAAA

APPLICANTS

Exam. Date	Name	Title	Findings	Admitted	Pro
11-27-73	Campbell, R.	B/O	Quinine	yes	No
12-12-69	Cannon, Joseph	R. R. Porter	Taking Drugs	yes	ye
4-12-71	Caputo, L.	Elect./Mtr.	Glutethimide	No	No
7-23-74	Caputo, N.	Sig/Mtr./Hlper.	Quinine	No	No
7-7-71	Carr, Louis	R. R. Porter	Using Drugs	yes	ye
10-5-71	Carr, William S.	Trackman	Quinine	No	No
9-5-74	Carroll, Robert	B/O	Pheno.	No	No
7-10-72	Cascone, Robert	M.H.C.	Quinine	No	No
12-10-73	Cassano, Gerard	Transit/Elect. Hlp.	Quinine	No	No
3-13-73	Catrone, Jo.	Transit/Elect. Hlp.	Methadone	No	No
8-2-73	Cereghino G.	Patrolman	Dilantin	No	No
10-15-73	Chapman T.	B/O	Amphetamines	No	No
10-20-70	Chavous J.	R. R. Porter	Using Drugs	Yes	No
11-15-71	Chellel, Bonita	R. R. Clerk	Quinine	No	No
8-12-74	Chico, Robert	R.R. Watchman	Pento Methadone	No	No
10-26-71	Choquette, Donald	Trackman	Methadone	Yes	No
8-13-70	Ciccolella L.	R. R. Porter	Taking Drugs	Yes	Ye
11-15-71	Clark, Marshall	Conductor	Quinine	Yes	No
7-18-73	Clarke, Ira	R.R. Clerk	Using Drugs	Yes	No
6-20-72	Clarkin, Thomas	R.R.Clerk	Quinine	No	No
10-10-73	Clemens, M.	R. R. Porter	Heroin Methadone	Yes	No
10-1-73	Coates, James	Station Fireman	Quinine	No	No
5-7-73	Cohen, Lester	B/O	Methadone	Yes	No
6-1-73	Coco, Frank	Conductor	Using Drugs	Yes	No
3-10-76	Cohen, Alan	R. R. Clerk	Methadone	No	No
5-11-71	Coleman, Frank	Conductor	Morphine Quinine	Yes	No
12-28-72	Coleman, Herbert	Clerk	Methadone	No	No
4-28-72	Coleman, Ronald	Trackman	Morphine Quinine	Yes	No
6-18-74	Coles, Diana	Typist	Methadone	No	No
6-6-71	Collins, Raymond	B/O	Quinine	No	No
7-9-70	Colon, Ronald	BMB	Use Heroin, Morphine, Quinine	Yes	No
11-19-71	Cornelius, Miles	Sig. Mtr. Helper	Methadone, Cocaine	No	No
5-5-71	Couch, Burman	B/O	Quinine	No	No
6-27-72	Covino, Joseph	B/O	Quinine	No	No
11-3-71	Craig, Gary	Tab. Oper.	Quinine	No	No
8-6-71	Creegan, Teresa	R.R.Clerk	Barbiturate, Penta	No	No
1-3-73	Cullen, Markin	Conductor	Quinine	No	No
4-16-74	Cummings, A.	CC	Marijuana	Yes	No
12-29-74	Cummings, Martin	B/O	Admitted used drugs in past.	Yes	No
5-14-70	Cummings, Stanley	R.R.Clerk	Quinine	No	No
3-19-73	Cundam, Frank	R.R.P.	Methadone	Yes	Ye
11-14-74	Curry, C.	Conductor	Quinine	No	No
7-23-74	Curry, Joseph	Electrical Helper	Drug Use	Yes	No
6-10-71	Cutitto, Thomas	R.R.Porter	Scars arm, red nasal mucosa	No	No

3121a
Exhibit AAAA

APPLICANTS

Exam. Date	Name	Title	Findings	Admitted	Prog.
/1/71	Dash, Thomas	R.R. Caretaker	Pheno	No	No
12/74	Davies, Emmitt	R.T. Watchman	Quinine	No	No
/3/73	Davis, Dean	Conductor	Methadone	No	No
24/72	Darroox, Y	Steno.	Pheno	No	No
/3/76	Dean, Davis	Cond.	Methadone Multiple scars	No	No
/28/70	Davis, Ralph	Cond.	Both Upper extremetes Quinine	No	No
/18/74	Davis, Samuel	Str. Mtr. C	Phenothiazine	No	No
/6/74	Davis, Samuel	R. R. Clerk	Quinine	No	No
/20/72	Deck, Robert	R. R. Clerk	Use of Drug	Yes	No
/23/73	Deffendorf, Warren	Trackman	Drug Arrest	No	No
/4/74	De Grasse, JJJ	R.R. Porter	Phenothiazine	No	No
/18/72	Dellasperanzo, R.	BMB	Methadone	Yes	Yes
/21/72	Delrosso, D.	R.R. Clerk	Quinine	Yes	No
/25/71	Denny, K.	R.R. Porter	Quinine	No	No
/27/72	Derrick, H.	Trackman	Methadone	No	No
/3/73	DeStefano, D	F/O	Phenothiazine	No	No
/15/73	Dingle, M.	R.R. Porter	Quinine	No	No
/16/73	Di Servio, M.	MHD	Darvon	Yes	No
/23/74	Dixon, J.	B/O	Quinine	No	No
/4/72	Doe, L.	B/O	Quinine	No	No
/24/72	Dohrman, John	B/O	Quinine	No	No
/31/71	Dolan, Thomas	R.R. Clerk	Quinine	No	No
/8/74	Collen, Robert	B/O	Quine	No	No
/15/71	Downing, John	Conductor	Quinine	Yes	No
/23/74	Duca, Eugene	St. Mtr.	Methadone	Yes	Yes
/1/71	Dumas, Vanderbilt	B/O	Quinine	No	No
/12/73	Duncan, Leon	Sig/Mtr.	Heroin	Yes	No
/15/73	Dunn, John	R.R. Porter	Quinine	Yes	No
/22/72	Dunne, Lawrence	Patrolman	Quinine Morphine	No	No
/5/71	Durant, James	M. H.A. (CoOp)	Quinine	Yes	No
/4/72	Edward, Leslie	B/O	Quinine	No	No
/2/73	Edward, Vincent	Clerk	Methadone	No	No
/30/73	Egan, James	B/O	Quinine	No	No
/29/74	Ellis, James	R/R/ Clerk	Quinine	No	No
/20/73	Engel, Frank	Patrolman	Admit Using	Yes	No
/25/71	Enright, B.	Trackman	Methadone	Yes	No
/1/73	Enriquez, T	Cond.	Methadone	Yes	No
/8/74	Ettinger, Harvey	Str.Mtr.B	Quinine	No	No
/23/71	Everett, W.	B/O	Quinine	No	No
/25/72	Fagundo, Joseph	Trackman	Quinine	No	No

3122a

Exhibit AAAA

APPLICANTS

Exam. Date	Name	Title	Findings	Admitted	Prog
9-13-73	Farmer, G.	Bus Operator	Pheno	No	No
5-5-71	Farr, Thomas	Conductor	Quinine Morphine	No	No
7-8-74	Farrell, Bruce	Bus Operator	Quinine	No	No
6-25-73	Farrell, John	Transit Mgt. Analyst	Pheno Quinine	No	No
8-10-71	Farrell, Roxane	Key Punch Operator	Morphine Quinine	No	No
4-26-73	Fedele, Joseph	Bus Operator	Quinine	No	No
2-26-73	Felton, Banks	Railroad Clerk	Methadone	Yes	No
7-17-72	Fender, Jacqueline	Clerk	Morphine Quinine	No	No
1-4-71	Fernandez, E.	Shop Clerk	Taking Drugs Quinine	Yes	No
6-5-73	Figueroa, M.	Police Adm. Aide	Darvon	No	No
8-23-73	Figueroa, R.	Trackman	Methadone	Yes	No
11-1-73	Figueroa, R.	Bus Operator	Admit Taking Drugs	Yes	Yes
10-23-73	Finelli, James	Stationary Fireman	Amphetamines Physical marks	No	No
12-27-71	Fitzgerald, L.	RR Clerk	Track Mark	No	No
9-14-72	Flowers, Jessie	RR Clerk	Pheno	No	No
5-22-73	Floyd, James	Bus Operator	Darvon	No	No
10-19-72	Ford, Michael	Motor Vehicle Operator	Methadone	No	No
11-7-73	Forte, Louis	Transit Elect.Hpl.	Pento	Yes	No
1-22-70	Foulks, Theodore	Conductor	Using Drug Morphine	Yes	No
4-11-74	Fowler, C.	Cashier	Quinine	No	No
2-25-74	Francis, R.	Conductor	Multiple Puncture, Both arms	Yes	No
8-8-74	Fratangelo, J.	Structure Mtr.	Quinine	No	No
5-17-73	Francis, R.	Railroad Clerk	Quinine Methadone	No	No
10-27-72	Freedenberg, H.	Conductor	Quinine	No	No
2-26-73	Friedwall, C.	RR Clerk	Methadone	Yes	No
11-5-71	Fulton, O.	RR Clerk	Quinine	No	No
5-8-72	Gaglia, A.	Trackman	Darvon	Yes	No
9-1-72	Caleno, M.	Conductor	Quinine	No	No
6-10-74	Galli, E.	Bus Operator	Quinine	No	No
7-5-72	Gallogly, J.	Cashier	Refused to take urine test	No	No
7-31-73	Gandia, E.	Conductor	Methadone	Yes	No
8-2-73	Gangi, G.	Patrolman	Quinine	No	No
6-29-72	Garbos, J.	Mtr's Helper-C	Darvon	No	No
11-30-73	Garrett, T.	Structural Mt. Trainee	Heroin use	Yes	No
10-9-73	Garris, Barbara	Typist	Methadone	Yes	No
11-27-73	Gray, L.	Bus Operator	Quinine	No	No
1-9-70	Gause, H.	Car Cleaner	Quinine	Yes	No
7-17-73	Gaylor, Y.	RR Clerk	Darvon	No	No
11-7-74	Gerard, C.	Transit Elec.Helper	Quinine	No	No
6-26-73	Gerondel, J.	Bus Operator	Quinine	No	No
1-6-71	Gethers, R.	Cashier	Track marks	No	No
1-22-73	Gibbs, A.	RR Clerk	Quinine	No	No
11-17-71	Gibb, S.	Conductor	Quinine	Yes	No
11-18-71	Gibson, R.	Conductor	Quinine	No	No
6-26-73	Getln, M.	Bus Operator	Morphine Quinine	No	No

BEST COPY AVAILABLE

Exhibit AAAA

6

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMITTED	PROG
6-15-71	Gitten, James	R.R.C.	Quinine	Yes	No
6-15-73	Glover, R.	R.R.P.	Morphine Quinine	No	No
7-14-71	Goldsmith, M.	R.R.Clerk	Pheno	No	No
10-21-71	Gonzalez, C.	B/O	Quinine	No	No
1-9-71	Gotllieb, Leon	Cashier	Methadone	No	No
9-10-71	Grant, E.	B/O	Quinine	No	No
6-26-73	Grant, G.	Cond.	Quinine	Yes	No
6-14-74	Graves, H.	Trackman	Quinine	No	No
6-7-73	Gray, D.	Typist	Pheno	No	No
4-9-70	Gray, G.	MHD	Use of Drug	Yes	No
4-8-74	Green, E.	Cond.	Use of Drugs	Yes	No
10-15-74	Greene, W.	Cond.	Quinine Cocaine	No	No
-	Greene, Leroy	Trackman	Incomplete Files		
10-18-71	Greene, A.	Cond.	Quinine Morphine	Yes	No
8-9-72	Greene, L.	B/O	Barbiturates	No	No
12-29-71	Griffiths, D	MHC	Methadone	No	No
8-16-73	Grimes, Glenn	R.R.Clerk	Quinine	No	No
8-7-74	Grizzell, B.	Cond.	Codeine	Yes	No
1-2-73	Cugliotta, L.	Cond.	Methadone	Yes	Yes
10-24-73	Guiles, K.	MHB	Pheno	No	No
7-13-73	Hairston, Al.	Sig. Mtr. Help.	Physical Finding	Yes	No
1-29-73	Hall, L.C.	C/R	Quinine	No	No
10-31-74	Hanks, W.G.	R/Clerk	Quinine	No	No
7-12-72	Hannon, A.J.	C/R	Methadone Alcoholism	Yes	Yes
11-20-70	Harper, P.	Clerk	Methadone	Yes	Yes
1-31-71	Harper R.S.	C/R	Quinine	No	No
6-24-74	Harris, A R	Messenger	Quinine Methadone	Yes	No
12-3-70	Harris, J.	Elevator Operator	Alcoholism	Yes	No
8-12-74	Hart, W.G.	R/Watchman	Quinine	No	No
6-20-72	Hayes, V	R/Clerk	Quinine Morphine	No	No
10-31-74	Headley, K	R/Clerk	Methadone	Yes	Yes

3124a
Exhibit AAAA

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMITTED	PROG
6-20-72	Heatley, A G.	R/Clerk	Morphine Methadone Quinine	No	No
10-29-71	Hechler, A.	M.H.A.	Physical Appearance	Yes?	No
7-11-74	Henderson, A.D.	BMB	Quinine	No	No
2-19-71	Hendricks, J.	C/R	Marijuana	No	No
11-12-74	Hewitt, P.C	R/Clerk	Heroin, Morphine	Yes	Yes ✓
7-6-71	Heyward, R.E.	B/O	Morphine Quinine	No	No
11-15-71	Hightower, L	C/R	Quinine Methadone	Yes	No
8-6-72	Hill, L.E.	Tele oper	Methadone	No	No
7-14-71	Holton, L.	R/Clerk	Quinine	No	No
10-1-71	Homies, A	BMB	Amphetamine Quinine, Barbiturates	No	No
7-27-73	Homics, A	MHB	Quinine	No	No
5-22-73	Hopkins, R M.	B/O	Quinine	No	No
2-27-71	Horry, R.	R.R. Stock Assistant	Drug Use	No	No
6-1-73	Horton, J.F.	R.R. Clerk	Morphine Quinine	No	No
7-7-71	Horton, R.J.	R/Watchman	Physical Marks	No	No
7-26-76	House, Raldolph	Bus Opera.	Cocaine	Yes	No
8-21-70	Hubbard, N.S.	B/O	puncture scars	No	No
3-9-73	Iannibelli, P.C.	Elevator Oper.		Yes	No
9-20-74	Ingarra, N.S.	Ass.Buyer	Phenothiazine	No	No
9-17-71	Ingram, R.	B/O	Quinine, Barbiturates	No	No
12-18-72	Irons, W.R.	BMB	Quinine Drug addiction	No	No
3-10-73	Isabell, C.C.	C/C	Scars on forearm	No	No
3-7-73	Jackson, V.	RR/Clk	Morphine Quinine	No	No
11-17-71	Jamison, H.	B/C	Quinine	No	No
12-1-71	Jay, G.M.	RR C'taker	Quinine	No	No
8-28-74	Jeffries, K.	RR/Clk		No	No

4

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMITTED	PROG
3-1-73	Johnson, A.	C/R	Quinine	No	No
1-2-73	Johnson, C.E.	C/R	Methadone	Yes	Yes
12-20-72	Johnson, Oneill	RR/P	Barbiturates	No	No
9-14-72	Johnson, P.	RR/Clk	Amphetamine Quinine	No	No
2-26-73	Johnson, R.	RR/Clk	Methadone	No	No
3-22-73	Johnson, R.C.	C/R	Darvon	Yes	No
9-20-74	Johnson, R.	Clerk	Quinine	Yes	No
11-11-72	Johnson, S.	Keypunch Operator	Quinine	No	No
12-28-72	Jones, A.	Clerk	Darvon	No	No
11-8-71	Jones, A.W.	RR Watchman	Quinine	No	No
10-27-71	Jones, E.M.,Jr.	Tk'man	Phenothiazine	No	No
8-18-72	Jones, E.R.	RR/Clk	Barbiturates	Yes	No
5-31-73	Jones, J.	RR/Clk	Darvon	No	No
12-28-70	Jones, P.A.	RR/Por.	History of Drug Addiction	No	No
4-28-72	Jones, S.	Tk'man	Quinine	Yes	No
4-21-72	Jones, W.E.	C/R	Quinine	Yes	No
9-22-71	Joseph, W.S.	C/R		Yes	No
3-15-76	Jiminez, Bertha	Clerk	Cocaine	No	No
4-15-74	Kantor, A.	Tab. Oper.	Phenothiazine	No	No
7-15-71	Kato, J.A.	RR/Porter		No	No
6-21-72	Kearse, E.	RR/Clerk	Quinine	No	No
6-8-71	Keating, C.E.	Light/Mtr.	Quinine	No	No
9-11-74	Kelly, R.T.	Patrolman	Quinine	No	No
7-9-74	Kerlchuk, J.M.	C/R	Methadone	No	No
7-1-71	Keshner, L.	B/O	Quinine	No	No
6-23-71	Kettrell, G.	Patrolman	Morphine Quinine	No	No
6-1-73	King, B.A.	RR/Clk	Methadone	Yes	Yes
7-10-72	King, M.	MHC	Quinine	No	No
6-30-71	Kitchen, J.L.	RR/Clk	Morphine Quinine	No	No
5-28-72	Klueger, L.	RR/Clk	Quinine	No	No
4-21-72	Knight, F.N.	C/R	Quinine	Yes	No
8-25-71	Kouracos, G.P.	RR/Porter	Methadone	Yes	Yes

Exhibit AAAA

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMITTED	PROG
9-22-76	LaBoard, C.	Assist. Accountant	Cocaine Drugs	Yes	No
12-2-70	Laboy, W.	RR/Porter	Quaalude	No	No
12-10-73	LaGrand, B.	Elec/help	Quinine	No	No
12-21-69	Lake, T.	C/R	Drugs	Yes	No
12-21-71	Lamb, E.M.	RR/Clk.	Quinine	Yes	No
6-10-74	Lambert, W.M.	C/R	Darvon	Yes	No

Exhibit AAAA

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMTD.	PROG.
5/9/72	Lao. A.	M H D	Methadone	Yes	Yes
9/11/74	Lawson, G.	Patrolman		Yes	Yes
4/23/71	Lawson, M.	B/O	Amphetamine Heromin	No	No
7/30/74	Lawson, N.	S M C		Yes	Yes
1/22/73	Lawson, Z. C.	RR/Clk.	Quinine Morphine	No	No
10/18/71	Leandri, J. O.	M H C	Quinine	Yes	No
5/21/73	Lee, R. H.	B/O	Quinine	No	No
7/27/72	Leffler, L. R.	Typist	Phenothiazine	Yes	No
1/24/73	Lenz, K. J.	Shop/Clk	Darvon Morphine	No	No
11/14/74	Lewis, J. A.	C/R	Quinine Morphine	No	No
10/18/71	Lewis, J. A.	C/R	Quinine	No	No
5/14/70	Liburd, L. L.	RR/Clk.	Drugs	No	No
9/24/70	Linoner, G. B.	M H A	Drugs	No	No
8/10/73	Little, D. R.	Patrolmen	Methadone	No	No
3/22/72	Little, R.	Clerk		No	No
1/21/74	Lloyd, S.	RR/Porter	Codeine	Yes	Yes
1/17/72	Lockey, R.	RR/Clk RR	Morphine Methadone	No	No
10/31/72	Lockhart, B. D	Watchman	Quinine	Yes	Yes
4/22/71	Logan, C.	B/O	Quinine	No	No
2/2/71	Loggins, C. Jr.	Cashier		No	No
6/5/73	Long, S. D.	Police Adm. Aide	Methadone Cocaine Quinine	Yes	Yes
5/11/71	Lopez R.	C/R	Morphine	No	No
1/26/71	Lotz, W.	RR/Porter	Marijuana	No	No
1/19/71	Lugo, W.	B/O	Methadone	No	No
1/28/71	Maben, J. L. Jr.	RR/Porter		No	No
10/15/74	Mack, R. J.	C/R		Yes	No
2/3/72	Maisonet, B. L.	RR Watchman		Yes	No
5/24/73	Mallory, G. M.	RR/Porter	Barbiturates	Yes	No
3/23/73	Maloney, A.	C/R	Quinine	No	No
5/8/74	Manfredi, V.	B/O		No	No
5/3/72	Manheim, G. T.	M H B	Barbiturates	Yes	No
10/12/73	Manley O. H.	Clerk		Yes	No
6/4/74	Marcus, E.	Clerk	Quinine	No	No
4/18/72	Martin, B.	Clerk	Quinine	No	No
4/26/72	Martin, I. S. Jr.	B/O	Quinine	No	No
7/29/74	Martin, J. E.	S. M. B.	Quinine	No	No
12/21. 71	Martin, J. H. Jr.	RR/Clerk	Quinine Heroin	No	No
11/24/70	Martyn, J. R.	M M C	Methadone	Yes	Yes
10/24/73	Mason, R. E.	M H B	Quaalude	No	No

3128a

Exhibit AAAA

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMTD	PROG.
11/20/73	Mossely, K.	Typist	Quinine	Yes	No
8/2/73	Matos, J. V.	Tk'Man		Yes	No
3/18/70	Matthews, K.	Tk'Man		No	No
9/4/73	Mayo, J.	B/O	Quinine	No	No
9/25/73	McCassling, L.	RR Watchman		Yes	No
6/10/74	McCormick, M.	C/R		No	No
12/12/73	McCoy, L. L.	RR/Porter	Quinine	No	No
11/24. 71	McCrae, B.	Tk'Man	Quinine	No	No
4/3/73	McCray, A	C/R	Quinine	No	No
12/15/70	McGriff, P.	C/R	Heroin	No	No
11/28/73	McIntyre, B. R.	B/O	Quinine	No	No
3/27/73	McKenzie, J.	RR/Clerk	Quinine	No	No
11/29/71	McKenzie, P.	RR/Clerk	Barbiturates	No	No
9/3/74	McKenney, [illegible] D.	B/O	Quinine	No	No
5/3/71	McNaughton, W.	C/R	Quinine	No	No
1/22/71	McMeal, F. D.	C/R		No	No
11/4/71	McNeill, H. C.	B/O	Barbiturates	No	No
5/31/73	McNiel, S. E.	RR/Clerk	Quinine	No	No
10/23/72	McPhail, C.	RR/Clerk	Methadone	Yes	No
5/3/71	Meadows, J. L.	C/R		No	No
3/23/73	Mercado R.	C/R		Yes	No
3/12/74	Metrock, R. A.	B/O	Methadone	Yes	No
8/31/71	Meyers, B. E.	C/R	Quinine	No	No
7/27/73	Milden, W. G.	Clerk	Quinine	No	No
9/27/71	Miller, B. M.	Tk'Man	Quinine	No	No
8/6/73	Miller, L.	Patrolman	Quinine	No	No
7/6/76	Miller, Vanessa	Summer Youth Prog	Methadone	Yes	No
8/12/74	Mingo, R.	RR Watchman	Methadone	Yes	Yes ✓
7/5/73	Mitchell, L. E.	Police Adm Adde		Yes	Yes ✓
8/1/73	Mitchiner D.L.	C/R	Quinine	No	No
1/25/72	Moolenaan, K.	Tk/Man	Quinine Morphine	No	No
5/5/71	Morales, A	C/R	Quinine	No	No
10/18/71	Morgan, L. M. Jr.	C/R	Quinine	No	No
7/6/71	Morris, C. W.	B/O	Quinine Methadone	Yes	Yes ✓
7/9/73	Morris, J. S.	C/R	Quinine	No	No
3/8/73	Morrison, H.	C/R		Yes	No
8/25/71	Munroe, W. W.	RR/Porter	Quinine	No	No
4/21/72	Murdaugh, M.	RR/Clerk	Quinine	No	No
1/1/72	Muscarella J.	M H A	Quinine	No	No
9/14/71	Narvaez, C. J.	C/I		Yes	No
8/31/73	Negron, S.	B/O	Quinine	No	No

Exhibit AAAA

APPLICANTS

EXAM. DATE	NAME	TITLE	FINDINGS	ADMTD	PROG.
5/16/72	Nevarez, D.	Acct. /Clk	Tranquilizers	No	NO
7/19/73	Nevels, S A. Jr.	RR/Porter	Darvon taking	No	No
12/30/70	Neville, N. L.	RR/clerk	Drugs-2 Mons.	No	No
7/1/71	Newsome, M.	RR/Clerk	Quinine taking	No	No
2/4/71	Nicolett, P, J.	RR /Porter	Heroin 3 days ago	No	No
6/5/73	Nina, J. R.	Police Adm. Aide	Quinine	No	No
4/11/72	Nomikos, J. P.	Clerk	Phenoth-iazine	No	No
9/1/71	O'Connor, B.	C/R	Quinine	Yes	No
7/10/72	O'Connor, G. F.	M H C	Ampheta-mine	No	No
7/25/74	O'Hara, K.	Typist	Phenoth-iazine	No	No
10/13/76	O'Hare, T. J.	Account	Barbit-uates	No	No
1/17/73	O'lestad, K. G.	M H D	Codeine	No	No
8/12/74	O'Leary, R. J.	Watchman	Phenoth-iazine	No	No
9/11/70	Olivera, R.	Sig. MTR	Needle puncture in veins	No	No
10/17/74	O'Rourke, J. K.	Tk. Man	Barbit-urates	No	No
6/10/74	Ortiz, L. A.	B/O	Use drugs	Yes	No
1/21/72	Osborne, J.	B/O	Quinine	No	No
11/1/73	Pacheco, H.	B/C	Quaalude	Yes	No
3/21/72	Palmer, S. L.	Patrolman	Quinine	No	No
6/2/71	Pannell, D.	Conductor	Quinine Morphine	No	No
9/13/71	Patton W. R.	B/O	Quinine	No	No
9/22/71	Payne, B. E.	C/R	Quinine Ampheta-mine	No	No
7/17/73	Pellenchia R. T.	RR/C	Quinine Morphine	No	No
8/21/72	Peruineah, A.	RR/C	Quinine	No	No
5/23/73	Peterson L. C.	RR/P	Quinine	Yes	No
6/27/72	Petito, A. J.	RR/C T	Methadone	No	No
7/31/74	Pettus, G.	RR/Clerk	Quinine	No	No
6/27/73	Phillips, L. A.	B/O	Quinine	Yes	No

EXAM. DATE	NAME	TITLE	FINDINGS	ADMTD	PROG.
11/21/73	Piciriello, R. C.	S/M/T	Methadone	No	No
9/14/72	Piliero, A	RR/C[illegible]	Tranquilizer Methadone	No	No
5/22/73	Pinder, M. J.	B/O	Quinine Methadone	No	No
5/12/71	Pitkoff, J.	S/I	Quinine	No	No
8/27/74	Polizzi, F.	RR/C[illegible]	Gluthe	No	No
1/19/70	Portalation, I.	C/C	Track Marks	No	No
1/15/72	Porter, C.	Typist	Methadown	No	No
9/3/74	Powell, Luke	C/R	Quinine	No	No
11/15/71	Pretlow, Robert	C/R	Quinine Methadone		
7/24/73	Price, David	RR/Poster	Darvon	No	No
11/29/71	Priester, Jeralyn	RR/Clk	Quinine	No	No
1/19/71	Pucciarelle, N.	B/O	Methadone	No	No

3131a

Exhibit AAAA

APPLICANTS

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
6-15-71	Quash, Anthony	RR/Clk	Using Drugs	Yes	No
7-23-74	Quinitchette, A.	Elec/Helpr.	Using Drugs	Yes	No
12-29-70	Raffo, John	RR/Clk	Physical findings	No	No
3-29-72	Ramacca, Frank	Bus/Opr	Quinine	No	No
5-3-71	Redmond, David	RR/Porter	Quinine	No	No
7-27-72	Reed, Phillip	C/R	Quinine	No	No
11-29-71	Reed, Thomas	RR/Clk	Quinine	No	No
6-20-72	Reeves, Melvin	RR/Clk	Quinine	No	No
3-28-73	Rehberg, William	RR/Clk	Pheno.	No	No
3-21-72	Reid, Drew	Patrolman	Quinine	No	No
3-2-70	Reid, Norman	C/R	Pheno	No	No
5-24-73	Rembert, Michael	RR/P	Using Heroin	Yes	No
12-13-73	Reyes, Rafael	RR/P	Using Drugs (Heroin)	Yes	Yes ✓
3-19-70	Richardson, R.	M/H/A	Physical Findings	No	No
7-24-74	Richter, Horst	Mgmt/Intern	Quinine	No	No
6-11-74	Richert, Allen	C/R	Pheno	No	No
8-29-72	Ritchie, K.	RR/Clk	Methadone	No	No
6-3-74	Rivera, Paul	RR/Porter	Methadone	No	No
12-20-71	Rivera, Ramon	RR/Clerk	Quinine	Yes	No
11-1-74	Rivera, Jose	RR/Clerk	Methadon	No	No
1-6-72	Rivers, Edward	Sig/Mtr/Hlpr.	Quinine	No	No
5-17-74	Rocco, J.	RR/Watchman	Used Heroin 2 yrs ago	Yes	No
2-14-72	Rodriquez, J.	Patrolman	Methadone	No	No
7-24-73	Rogers, P.A.	Patrolman	Quinine	No	No
11-12-74	Roldan, M.	RR/Clk	Methadone	Yes	Yes ✓
1-4-73	Roldan, L.	RR/Watchmn.	Quinine	No	No
7-27-73	Romano, J.	Bus Operator	Phenothiazine	No	No
7-13-73	Romolo, J.R.	Elec/Helpr.	Quinine	No	No

3132a
Exhibit AAAA
APPLICANTS

15

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
2-13-73	Rossiter, S.	M/H/D	Barbiturates	No	No
1-4-72	Rolhmand, D.T.	B/O	Track Marks	Yes	No
9-22-71	Rowell, F.	C/R	Track Marks	No	No
5-16-74	Royo, L.A.	Cashier	Methadone	Yes	No
9-28-71	Rubin, R.A.	RR/Clerk	Narcotics	Yes	No
12-11-73	Rush, L.A.	Elec/Hlpr.	Quaalude Quinine	Yes	Yes*
10-19-71	Russell, P.	C/R	Morphine	No	No
10-26-71	Rizzo, C. J.	Track/Mn.	Amphetamines	No	No
3-13-73	Roberson, W.	Elec/Helpr.	Adm/taking Cocaine	Yes	No
7-19-73	Roberts, C.	RR/Porter	Methadone	Yes	No
8-23-73	Roberts, C.	Tk/Man	Methadone	Yes	No
7-9-73	Roberts, C.	C/R	Poss/of Heroin	Yes	No
9-24-71	Roberts, L.	Bus Oper.	Quinine	No	No
12-28-71	Robinson, B.S.	Mtr/Helpr/C	Methadone	No	No

Exhibit AAAA

APPLICANTS

16

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
8-17-73	Robinson, C.	RR/Clk.	Quinine	No	No
3-23-71	Robinson, C.R.	Shop/Clerk	Track Marks	No	No
12-12-73	Robinson, J.	RR/Porter	Quinine	No	No
8-2-71	Robinson, L.	B/M/B	Quinine	No	No
1-15-73	Saks, M.	S/I	Cocaine	No	No
3-2-73	Salks, M.	RR/Clk.	Quinine	Yes	No
1-10-72	Sanches, P.	B/O	Quinine	No	No
5-14-73	Santang,W.	Clerk	Cocaine	No	No
1-31-76	Sarauw, D.	RR/Clk.	Quinine	No	No
8-2-74	Sanders, S.	Str.Mtr'B'	Barbiturates	Yes	Yes*
9-21-72	Scangarello,T	B/O	Codeine-Morphine	No	No
9-27-71	Schicchi, J.	B/M/'B'	Amphetamines	No	No
7-29-74	Schmitt, M.	S/M/T	Quinine	No	No
9-9-74	Seeberger, S.	Patrolman	Quinine	No	No
4-12-71	Shaw, T.	Elect/Mtr.	Methadone	No	No
10-16-73	Sheppard, L	B/O	Quinine	No	No
9-16-72	Sheppard, L.	RR/Clk	Track/Marks	No	No
6-11-70	Sherrod, P.	Conductor	Track/Marks	No	No
12-23-71	Sills, R.	RR/Clk.	Cocaine Methadone	No	No
4-27-72	Simons, J.	M/H/D	Arrest/Record	Yes	No
8-29-73	Singer, M.	B/O	Compound	No	No
7-22-74	Sirico, F.	B/M/B	Quinine	No	No
3-20-72	Skeete, C.	Patrolman	Quinine	No	No
8-5-74	Slavin, M.	Lab/Tech.	Phenothiazine	No	No
10-11-74	Smiley, L	RR/Watchman	Quinine	No	No
9-20-74	Smith, E.	Clerk	Quinine	No	No
10-16-76	Smith, Israel	B/O	Quaalude Quinine	No	No

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
12-21-70	Smith, T.	C/T/T	Track Marks	Yes	No
11-16-71	Smith, Theodore	B/O	Quinine	No	No
11-15-71	Smith, W.	C/R	Nasal	No	No
10-23-70	Snyder, C.	C/R	Track Marks	No	No
5-10-73	Solomon, D.	RR/Porter	Methadone	Yes	Yes
11-15-74	Soltero, H.	C/R	Track Marks	Yes	No
9-14-73	Sorrells, L.	Trackman	Using Drugs	Yes	No
2-7-72	Soto, J.	RR/Clerk	Using Heroin	Yes	No
7-6-72	Spann, L.	Office/Appl Operator	Quinine-Morphine	No	No
10-27-71	Spivey, H.	RR/Clk	Quinine/Methadone	No	No
9-25-70	Stanley, F	C/R	Track Marks	No	No
12-7-73	Stanzione, V.	Clerk	Quaalude	No	No
7-26-74	Starrett, W.	M/H/C	Quinine	No	No
8-30-73	Steele, R.	B/O	Quinine	No	No
4-29-71	Stephens, W.	RR/Clk	Quinine	No	No
7-8-74	Stewart, E.	C/R	Methadone	Yes	No
9-22-71	Stirgus, A	C/R	Quinine	No	No
10-20-71	Stokes, T.	RR/Clk	Quinine	No	No
7-6-75	Strait, R.	RR/Porter Transit	Quinine	No	No
7-15-73	Sullivan, B.	Elect/ Helper	Quinine	No	No
1-11-74	Sweeney, M.	Conductor	Methadone	Yes	Yes
9-14-72	Swinton, J.	RR/Clk	Tranquilizer	No	No
8-29-73	Tabickman, I.	Patrolman	Pheno.	No	No
5-12-71	Tain, J.	C/R	Quinine Morphine	No	No
10-12-73	Tamburin, R.	Trackman	Compounds	No	No
7-27-72	Tapper, L.	C/R	Quinine Methadone	No	No

3135a
Exhibit AAAA

APPLICANTS

18

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
1-3-72	Tartarilla, A.	B/O	Methadone	No	No
6-20-73	Tasso, M.	M/H/'C'	Quinine	No	No
10-18-71	Taylor, G.	Clerk	Morphine Quinine/Cocaine	Yes	No
12-14-72	Taylor, J.	Patrolman	Quinine	Yes	No
10-8-70	Taylor, N.	RR/Porter	Track Marks	No	No
8-5-71	Taylor, R.	RR/Clerk	Quinine, Morphine	No	No
1-3-72	Taylor, T.	B/O	Quinine	No	No
11-30-71	Teamer, Leon	C/R	Using Heroin	No	No
3-22-73	Terrell, G.	C/R	Quinine	No	No
7-11-72	Thompkins, T.	RR/Porter	Quinine	No	No
8-9-73	Thompkins, R.	RR/Porter	Quinine, Morphine	No	No
6-5-72	Thompson, C.	B/O	Quinine	Yes	No.
4-27-71	Thompson, D.	B/O	Track Marks	No	No
11-15-71	Thompson, Fred	C/R	Quinine, Morphine	No	No
9-22-71	Thompson, John	C/R	Quinine	No	No
1-19-71	Thompson, M.	C/R	Methadone	Yes	Yes
6-15-71	Tinsley, Arthur	RR/Clerk	Track Marks	No	No
11-1-71	Tolbert, C.	B/O	Darvon	No	No
10-25-72	Tolton, Robert	RR/Clk	Using Drugs	Yes	No
12-28-73	Torres, M.	M/H/B	Codeine	Yes	No
12-24-70	Troiano, R.	M/H/B	History of Drug Addiction	Yes	No
1-26-70	Turner, B.	C/R	Codeine	No	No
5-3-73	Turner, Nancy	RR/Clk	Quinine	No	No
3-23-70	Ullina, Richard	M/H/A	Track Marks	No	No
6-19-72	Vaccaro, Rosalin	RR/Clk	Quinine/Methadone	Yes	No
8-31-72	Vann, Lawrence	C/R	Barbiturates	No	No
7-16-73	Vargas, H.	B/O	Quinine	No	No

Exhibit AAAA

APPLICANTS

19

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
8-5-74	Veralli, A.	RR/Clk	Heroin	Yes	Yes
1-21-71	Vicente, Tirso	M/H/A	Using Heroin	Yes	No
5-13-74	Villiers, T.	B/O	Heroin	Yes	No
9-21-72	Vitiello, Daniels	Transit Elec. Helper	Methadone	No	No
6-18-73	Vogel, Clark	Asst. Project Coordinator	Quinine	No	No
4-11-74	Votto, John	Transit Elctc. Helpr.	Methadone	Yes	No
8-16-73	Waites, W.	Patrolman	Quinine	No	No
7-24-73	Walker, R.	B/O	Quinine	No	No
10-18-71	Wallace, J.	C/R	Quinine	No	No
11-24-73	Wallace, Leon	RR/Clk	Quinine	Yes	No
4-8-74	Ware, James	C/R	Track Marks	Yes	No
2-23-71	Washington, E.	B/O	Track Marks	No	No
8-17-73	Watkins, Junius	RR/Clk	Admit Methadone	Yes	Yes
12-17-73	Watkins, Junius	RR/Porter	Using Heroin	Yes	Yes
9-22-71	Watts, J.	C/R	Quinine	No	No
10-8-70	Weatherby, John	RR/Porter	Track Marks	No	No
1-30-73	Welch, S.	Eng/Trainee	Darvon	No	No
2-25-71	West, James	M/H/C	Track Marks	No	No
6-18-73	Whalen, E.	Clerk	Darvon	No	No
5-2-73	Wheeler, A.	RR/Clerk	Quinine	No	No
7-20-70	White, A.R.	M/H/A	Run.Marks	No	No
8-7-74	White, B.	S/M/B	Codeine	No	No
1-2-73	White, E.	Clerk	Drugs	Yes	No
11-6-70	White, H.S.	M/H/D	Scars	No	No
1-22-74	White, K.	RR/Porter	Used Heroin	Yes	No
4-3-73	White, L.D.	B/O	Darvon Poss of drugs	Yes	Yes*

Exhibit AAAA

APPLICANTS

20

EXAM DATE	NAME	TITLE	FINDINGS	ADMTTD.	PROG
12-1-70	Wider, W.	RR/Porter	Thrombossed veins Codeine	No	No
9-11-74	Wiggins, M.D.	Patrolman	Darvon Quaalude	No	No
11-7-73	Wilkes, J.	Elec. Helpr	Quinine	No	No
11-13-72	Wilkes, J.	Patrolman	Quinine	No	No
5-24-76	Williams, E.	RR/Porter	Used Heroin 3 yrs ago	Yes	No
2-26-73	Williams, F.	RR/Clk	Quinine	Yes	No
8-28-70	Williams, L.	C/R	Thromposed Veins(both forearms)	No	No
12-14-72	Williams, K.	Patrolman	Darvon	No	No
6-6-76	Williams, V.	RR/Clerk	Quinine	No	No
10-22-70	Wilson, J. C.	RR/Porter	Addiction	No	No
10-27-72	Wilson, J.E.	C/R	Methadone	No	No
4-20-72	Wilson, L.	RR/Clerk	Scars Upper Fore arm	No	No
4-18-72	Winn, F.	Clerk	Phenothiazine	No	No
12-28-72	Wohrle, J. E.	S/I	Quinine, Morphine	No	No
11-10-70	Wooten, D. H.	C/R	Quinine, Morphine	No	No
11-29-71	Wray, F.	RR/Clk	Methadone - Quinine	Yes	No
3-23-70	Wright, J.O.	RR/Porter	Quinine	No	No
12-30-71	Wright, R.	Tk/mn.	Quinine	No	No
6-26-74	Younginer, C.	TK/Mn.	Quinine	Yes	No
11-19-73	Youssef, A. S.	Accountant	Barbiturates	No	No
7-26-71	Zambouros, P.P.	B/O	Quinine -	No	No
7-16-74	Zuzzolo, R.M.	S/M/D	Use of heroin 5-6 yrs ago	Yes	No

* Participation in Methadone Maintenance Program uncertain.

3138a

Exhibit CCCC—Diaz' "Employee's Personnel Record"

NEW YORK CITY TRANSIT AUTHORITY

EMPLOYEE'S PERSONNEL RECORD

PRINT ALL INFORMATION IN INK ON BOTH SIDES OF SHEET

NF 6/4/76 RJ

CCCC

1. Last Name	First Name	M.I.	11. Title of Position
DIAZ	FRANCISCO		MAINTANEY HELPER D

2. Home Address (Number and Street)	12. Birthdate	13. Social Security No.
3865 BAYCHESTER	11/20/34	115-26-4688

Borough or City	State	Zip Code	14. Birthplace City	State	Country
BX.	N.Y	10466	N.Y.C.	N.Y.	

3. Sex Male ☑ Female ☐	4. Telephone No.	15. If Non Citizen, Check Box ☐ If Naturalized Citizen: Cert. No. / Date
	TU-1-4806	

5. Family Status: Single ☐ Married ☑ Divorced ☐ Separated ☐ Widowed ☐
How many dependent children live at home with you? 2

16. Fill in the number of years since you started your first full-time job: 2.5

17. Have you served in the U.S. armed forces? Yes ☐ No ☑

18. Are you a disabled veteran? Yes ☐ No ☑

19. Dates of service From / To — Type of Discharge

20. Your home address on entry into service

21. Your Military Occupational Specialty (MOS)?

6. Were you ever arrested or summoned? Yes ☑ No ☐
Were you ever convicted of a crime or offense? Yes ☑ No ☐

7. Were you ever dismissed from a position Yes ☑ No ☐

8. Were you ever or would you be rejected for a bond? Yes ☐ No ☑

9. Were you ever removed or disqualified from public employment? Yes ☑ No ☐

10. If you answer yes to question 6, 7, 8, or 9, give full details below; include dates:

WHEN I WAS [redacted] 19 YEARS OLD I WAS ARRESTED FOR POSSESSION OF A HYPODERMIC NEEDLE. SENTENCE WAS SUSPENDED.

WHEN I WAS ABOUT 19 OR 20 YEARS OLD I WAS ARRESTED FOR ATTEMPTED RAPE. CHARGES WERE DISMISSED

22. Education School Name & Location (State)	Day or Night	Dates Attended (Month & Year) From / To	Highest Year Completed	Degree or Diploma Received	Total Credits	Major Subject Title	Major Subject No. of Credits
Elementary P.S. [redacted] 121 NMB	DAY	[illegible]	6	GRADUATED			
High or Trade School B.S. 171 NMA	DAY	9-[illegible] 6-58	4	GRADUATED			
College SAMUEL [illegible] DRONE	DAY	9-[illegible] 6-[illegible]	1	NONE			
Specialized Training A.S.							

23. License: If a License is required for this Position, Answer the Following

Title of License You Possess (Valid in N.Y.C.)	License Number
Name of Issuing Agency	Do Not Write in This Space

Date of Original Issue	Date Last Renewed	Renewal No. (If Any)	Expiration Date

24. Previous or present New York City or New York State Employment

From	To	Title	Department	Permanent or Provisional

Continue on reverse side

58-67-0011 /
10M/10-16-73

317 0

3139a

Exhibit CCCC

LIST COMPLETELY YOUR EMPLOYMENT AND/OR UNEMPLOYMENT RECORD FOR THE PAST TEN YEARS, BEGINNING ON LINE 1 WITH YOUR PRESENT STATUS, GIVE FULL AND ACCURATE DATES AND ADDRESSES. ACCOUNT FOR ALL PERIODS OF TIME, BOTH EMPLOYED AND UNEMPLOYED.

	DATES OF EMPLOYMENT FROM (MO. YR.)	TO (MO. YR.)	EMPLOYER'S NAME AND ADDRESS	TITLE OF POSITION HELD	REASON FOR LEAVING
1	4-76	PRES ENT	WARE · LO. INC. 3450 BAYCHESTER BX. N.Y.	TRUCK HELPER	
2	7-74	3-75	BAYCHESTER BAKERY MT. VERNON, N.Y.	PORTER	WHEN WENT OUT OF BUSINESS
3	11-71	1-72	CUSTOMIZE BKLYN., N.Y.	SHEET METAL WORK	CO. RELOCATED
4	6-71	9-71	PACE - MAKER L.I.C., N.Y.	SHEET METAL WORK	LACK OF WORK
5	3-60	4-71	TELE SONIC L.I.C., N.Y.	SHEET METAL	UNION "LOCK OUT"
6	1-72	6-74	UNEMPLOYED - COLLECTED UNEMPLOYMENT INSURANCE		
7	3-75	4-76	UNEMPLOYED - COLLECTED UNEMPLOYMENT INSURANCE		
8					
9					
10					
11					
12					

LIST ALL YOUR RESIDENCES FOR THE LAST FIVE YEARS, BEGINNING ON LINE1 WITH YOUR PRESENT ADDRESS

	DATES FROM	DATES TO	NO.	STREET	CITY	STATE
1	1958	PRESENT	3865	BAYCHESTER AVE	Bx.	N.Y. 10466
2						
3						
4						
5						

WHOM SHOULD WE NOTIFY IN AN EMERGENCY?

NAME		ADDRESS	PHONE NUMBER
GRACE DIAZ	(WIFE)	3865 BAYCHESTER AVE	TO-14866

BE SURE ALL QUESTIONS ARE ANSWERED COMPLETELY

DECLARATION (To be completed by applicant)

I declare, under penalties of the penal law, that I prepared this side and the front side of this Personnel Record and that the statements contained therein are, to the best of my knowledge and belief, true and correct and that I have not knowingly and willfully made a false statement or given information which I know to be false in connection therewith.

Date 6-4-76

SIGNATURE Francisco Diaz

REQUIREMENTS FOR OPERATING A METHADONE PROGRAM

New York State
DRUG ABUSE CONTROL COMMISSION

MAY, 1974

New York State Drug Abuse Control Commission Requirements

STATE OF NEW YORK

MALCOLM WILSON, GOVERNOR

DRUG ABUSE CONTROL COMMISSION

ANTHONY CAGLIOSTRO, CHAIRMAN
HAROLD MEISELAS, M.D., VICE CHAIRMAN
SANTIAGO GREVI
JOSEPH F. PERICONI
ARTHUR J. ROGERS

New York State Drug Abuse Control Commission Requirements

Chapter XXV of Title 14 NYCRR is hereby amended by adding thereto a new Part, to be Part 2021, to read as follows:

PART 2021

REQUIREMENTS FOR OPERATING A METHADONE PROGRAM

(STATUTORY AUTHORITY: MENTAL HYGIENE LAW, § § 81.09(a), 81.38 AND ARTICLE 85)

Section
2021.1 Applicability
2021.3 Definitions
2021.5 Conformity with applicable law and regulations
2021.7 Avoidance of multiple enrollment
2021.9 Screening and admission
2021.11 Methadone detoxification treatment
2021.13 Methadone maintenance treatment
2021.15 Methadone maintenance staffing pattern
2021.17 Patient records
2021.19 Methadone security
2021.21 Physical facility
2021.23 Community considerations
2021.25 Exception and exemption
2021.27 Conditional approval
2021.29 Denial of approval or revocation
2021.31 Application after denial or revocation
2021.33 Inspection

Section 2021.1. Applicability. The provisions of this Part shall apply to any methadone program which requires statutory approval by the commission or whose statutory approval by any other agency, federal or state, shall require the prior approval or recommendation of the commission; and no such approval or recommendation shall be granted or continued for any methadone program not in substantial conformity with these standards.

2021.3. Definitions. (a) Methadone Program means a person or organization utilizing methadone and/or any of its derivatives for the detoxification and/or maintenance treatment for the rehabilitation of narcotic addicts; and conducting initial intake and evaluation of patients at a single specified location and ongoing treatment at the same or other specified locations.

United States Food and Drug Administration

(b) Methadone Clinic means a single location at which a methadone program provides methadone to patients.

(c) Methadone Detoxification means a procedure using methadone and/or any of its derivatives to be administered in decreasing doses, over a time period not to exceed 21 days, for the purpose of detoxification from opiates.

(d) Methadone Maintenance means a procedure using methadone and/or any of its derivatives, to be administered over a period of time in excess of 21 days, for the purpose of maintaining patients at a stable dosage or by slow reduction of the dosage to achieve a drug-free state.

(e) An Approval by the commission means any formal approval, recommendation or other official action favoring the establishment or operation of a program.

2021.5. Conformity with applicable law and regulations. The granting or continuation of any approval by the commission pursuant to this Part shall be conditional upon conformity by the applicant with all relevant federal, state, and local laws, and any rules established pursuant thereto. All requirements of this Part shall be in addition to such other requirements.

2021.7. Avoidance of multiple enrollment. To prevent simultaneous enrollment of a patient in more than one methadone program, each program shall initiate a clearance inquiry by submitting in writing to the commission or its designee, the name, address, date of birth, social security number and such other information in such form as the commission may require concerning applicants, newly admitted or readmitted patients, including their dates of application, admission, discharge or termination. No applicant shall be admitted to a methadone program who is reported by the commission or its designee to be participating in another such program. Reports received pursuant hereto by the commission or its designee shall be treated as confidential information and shall not be released except to an approved methadone program pursuant to this section, or as required by law. Information made available by the commission to methadone programs pursuant hereto shall likewise be held confidential. Attention is also directed to section 3356 of the Public Health Law, and pertinent federal regulations.

2021.9. Screening and admission. (a) Screening shall mean the process by which the intake staff of the methadone program determines that an applicant is eligible for admission. No applicant is to be processed for admission to a methadone program until it has been verified that he meets all applicable criteria, and that the sources and methods of verification have been recorded in the applicant's case folder as specific documentation.

The screening process shall include:

(i) verification of an applicant's identity (name, address, date of birth, social security number and other identifying data);

(ii) determination of opiate or opioid addiction (physical examination performed by physician to determine opiate usage; laboratory evidence--urinalysis for drug abuse; and verification of narcotic abuse and narcotic abuse history);

(iii) verification that an applicant is not presently a methadone patient in another methadone program (clearance by commission or its designee).

(b) Admission to a methadone program (methadone maintenance) shall include, as a minimum, the following procedures:

(i) complete medical history, physical examination and psychiatric and psychological evaluation;

(ii) laboratory workup by a licensed clinical laboratory which shall include:

1. routine blood chemistry,
2. liver profile,
3. serology,
4. complete blood count,
5. routine urinalysis;

(iii) a test for tuberculosis with follow-up, if indicated;

(iv) current tetanus immunization;

(v) intake interview and complete psycho-social history (counselor or social worker);

(vi) FD 2635 "Consent to Methadone Treatment" form to be signed by applicant or if he is under eighteen years of age, by his parent, or legal guardian;

(vii) issuance of an identification card (with photo).

All medical procedures required at the time of admission to treatment shall be repeated annually.

(c) Admission to a methadone program (methadone detoxification) shall include the following procedures:

(i) complete medical history, physical examination and psychological evaluation;

(ii) laboratory workup by a licensed clinical laboratory which shall include:

1. routine blood chemistry,
2. liver profile,
3. serology,
4. complete blood count,
5. routine urinalysis;

(iii) intake interview and complete psycho-social history (counselor, social worker, or licensed professional medical staff member);

(iv) FD 2635 "Consent to Methadone Treatment" form to be signed by applicant or if he is under eighteen years of age, by his parent, or legal guardian;

(v) issuance of an identification card with beginning and termination dates of validity prominently set forth on the face thereof, and valid for no more than a total of 21 calendar days.

(d) No methadone shall be administered unless the applicant has been determined to be an opiate addict and has undergone all of the screening and admission procedures required for the class of treatment services to be provided, except that in infrequent emergency cases which must be documented by a record of the circumstances, recommended by a responsible physician and approved by the clinic administrator, it shall not be a violation of these regulations to provide methadone, for on-site ingestion, after submission of a clearance inquiry or of specimens and pending return of enrollment clearance reports from the commission or its designee, or clinical laboratory reports. In all such cases, the program shall avoid repeated or prolonged exercise of this privilege by any single patient, and shall take such administrative precautions as shall minimize the frequency of need for such privilege.

2021.11. Methadone detoxification treatment. (a) Determination of dose -- The physician shall be the only person authorized to determine the patient's initial dose, detoxification schedule, and any departure from a prescribed dose or schedule. The physician shall communicate the dose to the pharmacy or the nurse supervising medication. If communicated orally, it must be followed by written confirmation within seventy-two hours. Written documentation of the current dosage must be prominently included in each patient's medical chart.

(b) Administration of methadone--No dose shall be administered or dispensed until the patient has been identified and the dosage compared with his currently ordered and documented dosage level. Ingestion of methadone shall be observed by the qualified person authorized to administer the medication. Only oral liquid methadone is to be administered.

2021.13. Methadone maintenance treatment. (a) Determination of dose--The physician shall be the only person authorized to determine the patient's initial dose, induction schedule, maintenance dose, detoxification schedule, and any departure from a prescribed dose or schedule. The physician shall communicate the dose to the pharmacy or the nurse supervising medication. If communicated orally, it must be followed by written confirmation within seventy-two hours. Written documentation and justification of the current dosage must be prominently included in each patient's medical chart.

(b) Administration of methadone--No dose shall be administered or dispensed until the patient has been identified and the dosage compared with his currently ordered and documented dosage level. Ingestion of methadone shall be observed by the qualified person authorized to administer the medication. Only oral liquid methadone is to be administered and/or dispensed. Take-home bottles shall contain individual doses and shall be labeled in accordance with federal and state regulations. Labels are to be orange in color and caps shall be child-proof. The dose of methadone shall not exceed 120 mgs. when administered in the methadone clinic nor 100 mgs. for take-home medication.

(c) Clinic visit frequency--Scheduling of clinic visits shall be governed by the following criteria:

(i) Criteria pertaining to length of treatment.

(1) If the patient has been admitted for less than three months (including the stabilization period):

daily clinic visit, or at least six days a week (maximum of one daily take-home dose weekly).

(2) If the patient has been admitted more than three months but less than two years:

No less than three clinic visits weekly for ingestion of methadone under observation. Gradual increase of take-home doses to no more than two doses at a time and a total of four doses per week.

(3) If the patient has been admitted for two years and longer:

No less than two clinic visits per week for ingestion of methadone under observation; no more than three take-home doses at any time and no more than a total of five take-home doses weekly.

(ii) Criteria pertaining to adherence to program regulations and evidence of progress in rehabilitation:

The privilege of receiving more than one take-home dose weekly is subject, in addition to the mandatory criteria relating to length of treatment, to a showing of probable responsibility in the handling of a potent pharmaceutical product.

(1) The privilege shall be withdrawn immediately and restored only after clinical review and a showing of improved level of responsibility, upon: (a) two or more consecutive urine specimens negative for methadone; (b) credible evidence of diversion of methadone; (c) loss of methadone on more than one occasion within any monthly period.

(2) The following forms of behavior would tend to contraindicate a decrease in clinic visit frequency, and should be considered, at regular or special interdisciplinary conferences as possible indicia of a need for increased clinic visit frequency:

(a) Abuse of controlled substances as evidenced by patient's statements, physical examination, positive urinalyses for non-prescribed drugs;

(b) Falsification of urine specimen;

(c) Self-administration of methadone in a way other than prescribed;

(d) Irregular attendance;

(e) Refusal to participate in other program components, if such participation has been deemed necessary by the professional staff;

(f) Acting-out behavior including violence or threats of violence toward patients and staff in the clinic;

(g) Evidence that patient is involved in other inappropriate behavior.

(iii) Exceptions

Exceptions to the mandatory clinic visit frequency criteria may be granted following approval by the commission, and federal and state regulatory bodies, but must be reviewed monthly and be fully documented. Notification of the commission, but not the prior approval, is required in the following exceptional circumstances: acute illness, family crisis, emergency travel, holidays. In no instance, will more than six (6) take-home doses be issued for one week.

(d) Medical examinations--During the induction-stabilization phase, the patient shall be examined by a physician or nurse daily. For one month following stabilization he shall be examined weekly. Subsequently, each patient shall be examined by the physician at three-month intervals on a regularly scheduled basis. Medical services shall be readily available during clinic hours.

(e) Supplementary services--Methadone maintenance treatment programs shall provide a comprehensive range of rehabilitative services on-site under professional supervision, to include: Individual counseling, group counseling, and vocational counseling. In addition, when the clinic administrator-supervisor/case supervisor determines that a patient requires more sophisticated services than are available at such program, he shall refer such patient to other individuals or agencies, with whom formal agreements have been made, for the provision of such services including, as a minimum, surgical, psychiatric, family planning, child placement, marriage counseling, family therapy, psychological consultation and legal assistance. The records of the methadone treatment program must contain documentation that such agreements exist. Referrals of patients for services and follow-up information and reports shall be entered in the patients' records. All records shall be made available for inspection and examination by the commission during business hours.

(f) Urine specimen testing--At least one specimen is to be acquired from each patient in the methadone treatment program on a weekly basis. Specimens shall be acquired in accordance with a randomization schedule, prepared in advance. The specimen shall be collected under the direct visual observation of a staff member. No other method shall be approved unless it can be demonstrated that such method effectively minimizes the possibility of falsification of the sample. Urinalyses for drugs of abuse are to be performed in accordance with approved standards. All urinalyses results must be entered in chronological sequence in both the medical and counseling sections of the patient's record. This information shall be used in case conferences for clinical purposes.

(g) Interdisciplinary staff conferences--The clinic adminstrator-supervisor shall schedule weekly interdisciplinary staff conferences during which the responses of individual patients to the treatment process are discussed, recommendations by staff members are considered, and appropriate changes in treatment or patient status are determined. Each patient's performance shall be reviewed at least once each month. A dated entry summarizing the case conference, recommendation and/or decision in an individual patient's case is to be recorded in the patient's record. The appropriateness of continued methadone maintenance treatment shall be evaluated when a patient has completed one (1) year of such treatment. The results of such evaluation including the specific medical and rehabilitative rationale for continued maintenance treatment shall be recorded in the patient's record. This evaluation will be repeated annually. All staff conferences shall review evidence of problems which may become manifest in the form of physical illness, symptoms related to methadone ingestion, persistent drug abuse (in particular the habitual ingestion of barbiturates, amphetamines and other non-opiate habit-forming drugs), repeated abuse of alcohol, violent acting-out inside and outside the clinic, anti-social behavior, and repeated infractions of clinic rules and regulations. All these disorders must be considered as part of the patient's pathology, and the appropriate treatment or referral for treatment arranged. After a reasonable period of time, an interdisciplinary case conference shall decide whether or not a specific patient can benefit from continued methadone maintenance treatment and whether continuation of such treatment constitutes a risk to himself or others. Where continuation in methadone maintenance is deemed inappropriate, the staff shall explore which treatment modality other than methadone maintenance would be available to the patient, and seek the patient's consent to agree to such referral. In any case, the staff shall make available to the patient an opportunity for detoxification from methadone either as an in-patient or an out-patient according to medical indication and subsequently discharge him from the methadone maintenance treatment program. All case developments, recommendations, case decisions, referrals and reactions of the patient shall be carefully recorded, and the reasons for the decision to terminate him shall be explained in detail in the closing summary.

(h) Detoxification--Such procedure shall be provided to all patients who request it, and to any patient who, by staff decision, is no longer a suitable methadone maintenance patient. In cases where it has been determined that on-site detoxification is undesirable (e.g. patient's violent behavior), alternative arrangements for in-patient or out-patient detoxification may be made at another facility. If such arrangements are rejected by the patient and suitable documentation has been included in the patient's record, the program's responsibility shall have been discharged.

2021.15. Methadone maintenance staffing pattern. Each methadone clinic providing a program of methadone maintenance shall have the services of:

(a) physician

There shall be the equivalent of one full-time physician (35 hours per week) for every three hundred (300) patients. If a physician is not present during some of the clinic hours, he must be available for consultations and emergency attendance. Qualifications for this position shall include: New York State licensure, specific training or direct experience in the treatment of narcotic addicts with methadone, and a well-grounded familiarity with the accepted rehabilitative modalities.

(b) clinic administrator-supervisor

There shall be one full-time clinic administrator-supervisor (Masters degree in Social Work or one of the behavioral sciences and special training; or direct and progressively responsible experience in the operations of a narcotic treatment program) for any clinic with any population up to three hundred (300) patients.

In those exceptional circumstances where a clinic has been authorized to treat more than three hundred (300) patients, the functions of clinic administrator and supervisor are to be divided between two full-time staff members, a clinic administrator (Administrative experience) and a case supervisor (Masters degree in Social Work or one of the behavioral sciences and specific training; or direct and progressively responsible experience in the operation of a narcotic treatment program).

The clinic administrator will be responsible for the ongoing supervision of administrative functions, and the training of all staff in administration and record-keeping systems of the program. The case supervisor will be responsible for the training and supervision of all counseling staff.

In those clinics with less than three hundred (300) patients, the clinic administrator-supervisor will assume all of the above responsibilities.

(c) nurses

There shall be no less than the equivalent of two (2) full-time registered or licensed practical nurses for up to three hundred (300) patients. Where specific approval to serve over three hundred (300) patients has been granted, there shall be one (1) nurse for each additional one hundred (100) patients or fraction thereof. The nursing staff shall include, however, one (1) registered nurse who shall be responsible for the general supervision of the nursing staff. The total number of nurses on the staff must be commensurate with the clinic hours and the number of patients to be served in order to insure that adequate nursing care will be provided at all times the clinic is in operation. Methadone shall be administered under direct observation and control.

(d) counselors

There shall be one (1) full-time counselor (Bachelor degree, or high school graduation or equivalency deploma coupled with two years or more experience as a para-professional rehabilitation worker) for every fifty (50) patients. Patients shall be assigned to specific counselors.

(e) vocational specialist

There shall be one full-time vocational specialist (Bachelor degree and experience in vocational counseling) for every one hundred fifty (150) patients.

2021.17. Patient records. An individual consolidated record shall be maintained for each patient. It shall contain:

(a) Identifying data and initial interview report, which must include: residence, family relationships and attitudes, education and vocational history, data on military service, if any, legal record, history of drug abuse and drug abuse treatment, intake worker's impressions and recommendations for immediate and long-range treatment;

(b) medical reports, laboratory reports and progress notes to be entered by physician and nurses;

(c) reports of urine tests for drugs of abuse;

(d) dated case entries of all contact with or concerning patients including a record of each clinic visit in chronological order;

(e) date and results of case conference (maintenance patients only);

(f) quarterly progress reports including a narrative summary of the patient's response to treatment during the report period, recommendations for future planning, and recommendations for changes in treatment, if indicated (maintenance patients only);

(g) clearance with the methadone data processing center, date and result;

(h) correspondence with patient, family members, other individuals, and referral agencies;

(i) closing summary including reason for termination and referral, if any. In the case of death, the cause of death shall be documented and reported to the commission.

Confidentiality of records. The provisions of section 408 of Public Law 92-255 (Drug Abuse Treatment Act of 1972) relating to confidentiality, and the rules and regulations adopted pursuant thereto, as both may from time to time be amended, shall apply to patient records maintained hereunder.

2021.19. Methadone security. (a) Storage and preparation of methadone, and disposal of residues--Methadone storage areas must be secured, with access limited to properly authorized staff. If individual doses of methadone are prepared in the clinic, the location for such an operation shall be securely and visually separated from patient areas. Immediately after administration, containers are to be purged by rinsing, inversion, or by any acceptable alternative method which shall effectively prevent the accumulation of residual methadone. Used containers shall be destroyed. This shall apply both to those used in the clinic as well as to all take-home bottles dispensed to patients in maintenance-type programs. Maintenance patients shall be required to return take-home bottles before receiving further take-home medication.

(b) Record-keeping--Each visit by every patient shall be recorded in chronological order. Data as to the current dose of methadone for each patient shall be immediately available in the patient's record. Each prescription for methadone must be written on an acceptable order sheet and signed by the physician. Each dosage dispensed, prepared, or received shall be recorded and accounted for by written signed notation in a manner which shall achieve a perpetual and accurate inventory of all methadone in stock at all times. Every dose of methadone shall be recorded on an adiministration sheet at the time that the dose is administered or dispensed and also on the patient's individual medication sheet. The qualified person administering or dispensing methadone shall sign his or her name at each notation. The methadone will be totaled in miligrams daily.

2021.21. Physical facility. (a) No methadone clinic shall serve more than three hundred (300) patients at any time, unless approved for a greater capacity, after review, by the commission. Criteria for such approval shall include, but not be limited to, the state of treatment of the patients, services offered, and needs of the community served.

(b) The methadone clinic facility shall be large enough to serve comfortably the number of patients it has under treatment. It shall include a waiting area, physician's office and examination room, a nurses' station with a methadone dispensing window or counter and individual offices for clinic supervisor, counselors, and other treatment personnel. Adequate room shall be available for group counseling and conference purposes.

(c) The medical area of the clinic shall contain, at least, the following equipment and supplies:

(i) furniture--examining table, instrument and drug cabinet, desk and chair;

(ii) supplies--medical instruments suitable to required examinations and foreseeable emergency procedures, including as a minimum, sphygmomanometer, oto-ophthalmoscope, and stethoscope;

(iii) emergency equipment--Narcan with instructions for use, oxygen, manual and mechanical resuscitator, and emergency tray.

(d) The methadone clinic shall be open at least six (6) days per week. Dispensing hours shall be flexible enough to permit a patient who is working, attending college or pursuing other socially acceptable activities to receive methadone without jeopardizing his status. Clinic hours should be so arranged as to permit a free flow of patients.

(e) The medication closet at the nursing station shall properly separate medications for internal and external usage. All expired and/or deteriorated medication shall be removed. Each container of medication shall be properly labeled, and shall indicate the appropriate stock number. All locks shall be in proper operating condition, with a double-locked narcotics compartment. There shall also be frequent and regular checks of medication, in addition to frequent spot checks. A daily narcotic sheet shall be maintained. All medication requiring refrigeration shall be properly stored in efficiently operating locked refrigeration units. Doors in the dispensing area shall have deadbolt or slide-bolt locks with double-locking in medication areas. A list of all personnel possessing keys to the medication areas shall be maintained, with proper safeguards to be employed for the transfer of keys from one tour of duty to the next, and for the safekeeping of such keys. An adequate alarm system shall be maintained, and there shall be sufficient capacity for telephone communication through the clinic.

2021.23. Community considerations. Each methadone treatment program shall define and report to the commission the geographic area of residence or employment from which the caseload for each of its clinics may be drawn. Approval for the operation of a clinic shall be dependent upon the favorable determination pursuant to the Public Health Law of issues of community concern including public need.

2021.25. Exception and exemption. Any request for exception or exemption by a methadone treatment program from strict compliance with any of the provisions of this Part shall be made in writing to the commission stating just cause therefor. If any such request is denied the reasons therefor shall be provided in writing by the commission.

2021.27. Conditional approval. In any case where it appears that a program is not in conformity with one or more of the foregoing requirements, as modified by any exemption or exception granted pursuant to these regulations; and where it appears that the deficiency is subject to correction; and that it is in the public interest to permit the program to operate pending correction of the deficiency, the commission may grant conditional approval under such time limits and other conditions as it shall find to be in the public interest.

2021.29. Denial of approval or revocation. (a) Right to hearing. If the commission declines to grant an approval, or revokes its approval already granted, it shall afford the methadone treatment program an opportunity to request a public hearing, which request must be made within thirty days of the date of notice to such denial or revocation. If so requested, a public hearing shall be held and may be conducted by the chairman or his duly authorized designee.

(b) Procedure for hearings

All hearings hereunder shall be conducted in accordance with the procedure set forth in Chapter XXV of Title 14 NYCRR Part 1012. The commission shall furnish the methadone treatment program requesting a public hearing with a copy of such procedure.

2021.31. Application after denial or revocation. After an application for approval has been denied or an approval revoked, no further application therefor may be submitted except by permission of the commission for good cause shown.

2012.33. Inspection. Members, or designated representatives of the commission may from time to time inspect the premises and facilities, staff, patients and records of each approved methadone treatment program for purposes of ascertaining its compliance with this Part. During the course of such inspection, professional staff of the commission may informally examine and question the patients of the methadone treatment program with relation to their safety, care, comfort, treatment and general well-being. The methadone treatment program shall permit access to its premises and facilities, staff, patients and records at all reasonable times for the purpose of such review. Refusal to permit such inspection may constitute cause for revocation of approval.

United States Food and Drug Administration Rules and Regulations with Respect to Methadone Maintenance Treatment Programs [37 Fed. Reg. 26790 (1972)]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Approved New Drugs Requiring Continuation of Long-Term Studies, Records, and Reports; Listing of Methadone With Special Requirements for Use

In the FEDERAL REGISTER of January 7, 1972 (37 F.R. 201), the Commissioner of Food and Drugs added a new section, § 130.48 *Drugs that are subjects of approved new drug applications and that require special studies, records, and reports*, to Part 130—New Drugs, Subpart A—Procedural and Interpretative Regulations. In the FEDERAL REGISTER of April 6, 1972 (37 F.R. 6940), the Commissioner proposed special requirements for use of methadone, by adding a new paragraph (b) to § 130.48, which would place methadone on the list of drugs subject to special studies, records, and reports, provide for the drug to be considered no longer exclusively investigative, establish special requirements for use of the drug, no longer approve its use as an antitussive, and revoke § 130.44 *Conditions for investigational use of methadone for maintenance programs for narcotic addicts* (21 CFR 130.44) upon the effective date of § 130.48(b).

Section 130.44 was promulgated on April 2, 1971, in concert with the promulgation of regulations by the Bureau of Narcotics and Dangerous Drugs now cited as §§ 306.04 and 306.07 under Chapter II of Title 21 of the Code of Federal Regulations. Publication of these regulations were each predicated on the investigational status of methadone in the maintenance treatment of narcotic addicts. Their effect was to require submission of an IND application to the Food and Drug Administration and submission of an application for separate registration to the Bureau of Narcotics and Dangerous Drugs for approval by each on the basis of a specific research protocol. The regulation of the Bureau of Narcotics and Dangerous Drugs required that approval be based on a concurrent review by the Food and Drug Administration for scientific merit and by the Bureau of Narcotics and Dangerous Drugs for the drug control requirements. In the interval, experience with the use of methadone in maintenance treatment programs has increased; and such programs have greatly expanded. This expansion has led in some cases to a growing problem of abuse and diversion. The promulgation of the revised § 130.44 is designed to set forth medical standards in the treatment of narcotic addiction in accordance with section 4 of title 1 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and to help reduce the likelihood of diversion by providing for a closed system of methadone distribution. The Bureau of Narcotics and Dangerous Drugs which has primary responsibility for the elimination of the diversion of narcotic drugs has been consulted in the drafting of these regulations and will continue to exercise supervision of methadone programs in this aspect. In addition, because of the broader acceptance of methadone in the treatment of narcotic addiction, legislation has been introduced into the Congress for the purpose of strengthening the authority of the Bureau of Narcotics and Dangerous Drugs to impose and enforce standards relating to the security and diversion of narcotic drugs utilized in the treatment of narcotic addiction.

In response to the April 6, 1972, publication several hundred comments were received from known authorities in the treatment of drug addiction, concerned citizens, members of Congress, municipalities and organizations currently operating methadone treatment programs, State and local governmental authorities, the medical community through the American Medical Association, the American Psychiatric Association and State and local medical societies, the Medical Committee for Human Rights, the National Association of Social Workers, the American Society of Hospital Pharmacists, the American Pharmaceutical Association, and pharmaceutical manufacturers.

1. Numerous comments stated that the proposed regulation represents an unwarranted intrusion into medical practice and the physician-patient relationship by a regulatory agency and would severely impede the ability of the serious practitioner to treat and rehabilitate the addict population. It was suggested that flexibility should be allowed in deciding what is good medical management of patients. These respondents recognized the necessity to control diversion and abuse but felt that the treatment of narcotic dependence is a medical problem the management of which should emanate from the medical profession. The Food and Drug Administration (FDA) has no intention of interfering with legitimate medical practice or the exercising of medical judgment in the treatment of narcotic addiction. Clinical judgment must ultimately determine the type and course of treatment for each patient. Because of the hazards known to exist from diversion and misuse of methadone, however, strict control over the distribution, administration, and dispensing of the drug is necessary to assure its safe use. This regulation provides sufficient latitude within which medical judgment may properly be exercised.

2. A number of physicians and pharmacists expressed concern that the regulation may limit the availability of the drug for antitussive and severe pain uses (as in cancer patients) and that this is discriminatory. The Commissioner concludes that the closed system of distribution provided for in the regulation, although unique, is necessary to protect the public health by minimizing diversion and misuse of methadone. In some instances other drugs may have to be substituted for the analgesic or detoxification uses of methadone as well as for emergency treatment of withdrawal symptoms. In almost all instances in which methadone might be the drug of choice for its analgesic use this should still be possible by utilizing the dispensing services of approved hospital pharmacies, or in remote areas without hospitals, community pharmacies which may be approved by FDA for dispensing methadone on the recommendation of the State authority and after consultation with the Bureau of Narcotics and Dangerous Drugs (BNDD). Although the Commissioner recognizes the effectiveness of methadone as an antitussive, he concludes that there are only limited indications for this use because of the ready availability of other effective agents. The benefits derived from the drug for antitussive use do not outweigh the hazards of diversion and abuse which would result from the increased availability if such use were allowed.

3. Some comments also expressed concern that outpatient or ambulatory detoxification and emergency treatment for heroin withdrawal will not be sufficiently widely available. Some persons recommended the authorization of specific physicians for the purpose of providing ambulatory withdrawal treatment and the authorization of community pharmacies as well as hospitals for administering and dispensing methadone. Private physicians who wish to use methadone for ambulatory detoxification or maintenance treatment of addicts can do so by obtaining approval for the operation of a methadone treatment program or by serving as an approved methadone treatment medication unit for an approved program. Community pharmacies will also be able to administer and dispense methadone either by being an integral part of an approved program or by serving as a methadone treatment medication unit for an approved program.

4. Several comments noted that no provision has been made for the hospitalized narcotic addict who is not enrolled in a methadone treatment program but requires other general medical or surgical care while in the hospital and requires treatment with methadone while these other conditions are being attended. Similarly, if a person enrolled in a methadone treatment program is hospitalized for other general medical or surgical care, the treatment program would have to provide the drug supply to the hospital under the proposed regulation. The regulation has been revised to include temporary treatment of narcotic addicts enrolled in methadone treatment programs while hospitalized for other medical or surgical conditions. Those addicts not enrolled in a methadone treatment program who are admitted to the hospital for other general medical or surgical care may be detoxified with methadone if their condition

warrants or, if not, they may be temporarily treated with methadone during the acute phase of their care.

5. One comment suggested the use of hospitals for stocking methadone as an emergency, temporary outpatient detoxification and/or maintenance treatment facility when an approved methadone treatment program is terminated. This comment has merit, and in the event that other approved programs are not available to the addicts or cannot accommodate displaced addicts, consideration will be given to using hospitals for the purposes of detoxification and or maintenance treatment until such time as the patients can be referred to other approved methadone treatment programs.

6. One comment called attention to the language used in the proposal to describe the storage requirements for the drug and how it differs from the BNDD regulations. This comment also noted the BNDD regulations require that records pertaining to narcotic distribution need only be retained for a period of 2 years. The Commissioner recognizes that only 2-year record retention is required under the BNDD regulations, but concludes that there is a need for additional control of this drug, as evidenced by its potential for abuse and its demand as a substitute for other addictive drugs. State laws may require even longer record retention. The storage requirements under this regulation are identical to the BNDD regulations.

7. A number of comments argued that alternative methods of control and distribution should be considered (e.g., centrally processed multiple prescription blanks and selected pharmacies). For the reason expressed in item 2 above the comments are rejected except that community pharmacies may be utilized to administer and dispense the drug for analgesia in remote areas without hospitals on the recommendation of the State authority and approval by FDA after consultation with BNDD.

8. Several comments expressed concern that restricted distribution will invite larger prescriptions resulting in poorer control and that such practice would be further encouraged by the needless recordkeeping requirements placed on hospitals which may cause them not to apply, thus promoting even more restricted distribution than the regulation is designed to provide. The Commissioner recognizes these possibilities but concludes that hospitals, as they have in the past, will respond to the needs of the community by making methadone available for its legitimate uses. It is further concluded that the hospital reporting system in the regulation will serve as an indicator of inordinate prescribing which can be corrected when necessary.

9. One comment suggested restricting the use of other orally effective narcotics to prevent them from being used as a substitute for methadone. The Commissioner rejects this comment at this time since he has no information that such drugs are being used for this purpose or that these drugs would be substituted.

10. Several comments urged that the regulation provide for minimum qualifications of program personnel and perhaps certification of physicians to use methadone in treating addicts. It was also suggested that staffing patterns be included in the guidelines. The regulation does provide for the submission of information concerning the scientific training and experience of professional personnel having major responsibility for the programs and the rehabilitative efforts which are part of the approval criteria. The regulation has been changed to include staffing guidelines.

11. There was comment that ambiguity exists regarding the terminology used for administering and dispensing medication and the ultimate responsibility for the medication. Some complained that program costs will be prohibitive unless a variety of "competent agents" of the physician, such as pharmacists, registered nurses, and licensed practical nurses be permitted to administer and dispense medication. In an effort to clarify these responsibilities, the regulation has been amended to indicate that methadone can be administered and dispensed by such "competent agents" supervised by and pursuant to the order of the practitioner licensed under appropriate State or Federal law to order narcotic drugs. The responsibilities of the practitioner have been further clarified.

12. Several comments objected to the threat of criminal prosecution of program directors and physicians within programs which may serve to discourage them from assuming program responsibility and may do little to insure compliance. Lack of administrative control by physicians and dependence on other agencies for funding serve to remove the physician or director from policy decisions, yet he is held responsible for any deviation from the submitted protocol. Although it is recognized that program directors and physicians may have limited control within the program, their ultimate responsibility for the care and treatment of patients and to the public health cannot be minimized or avoided.

13. Several comments objected to the regulation by describing it as extremely discouraging and representing a severely exaggerated, punitive and logically incorrect response to the problem of drug diversion. These comments also stated that the regulation will only serve to divert money away from new services, prevent the expansion of existing programs, further widen the gap between government agencies and the practitioner, and perhaps even compound the problem of illicit diversion. Some urged that implementation be gradual and that every effort be made to address the need for Federal funds to assure adequate service. One comment objected to the regulation's interference with the organizational structure of programs to the point of prescribing a mode of treatment. It is recognized that problems of treatment are not uniform in different regions of the country and that flexibility is needed while attempting to maintain basic standards of control. The regulation has been revised to include a provision for specific exemptions or to establish revised standards for programs where they can be adequately justified.

14. Several comments objected to the implication that methadone is itself a complete and adequate treatment for narcotic addiction in all cases. Any such implication which the proposal may have conveyed was unintentional, and an attempt has been made to remove such implication.

15. One comment was critical of FDA's response to applications or other submissions in that the agency response is too slow to require that no changes be made without prior approval. It was suggested that changes be allowed to automatically take effect 10 days after certified receipt of a submission by FDA unless specifically rejected in that time. FDA regrets any delay in previous responses and is aware of the need for prompt action in this critical public health problem but without specific information regarding the reported delays the agency must reject this proposal. The regulation provides for a 60-day approval or denial period.

16. Another comment proposed a review board to review actions of the FDA, BNDD, or the State authority in denying or revoking program approvals. The Commissioner concludes that the law requires him to exercise this authority, though the final regulation does provide for State approval and consultation with the BNDD prior to FDA approval.

17. One comment suggested that the FDA develop a list of interested persons and to assure that such persons would be notified of changes in the FDA regulation. Changes in regulations are effected by publication in the FEDERAL REGISTER and are published for comment prior to promulgation. Subscriptions to this publication can be purchased for a nominal fee. In addition, the FDA will notify persons responsible for a program (those persons signing the latest amended applications for approval of a program) of any changes in the regulation.

18. One comment suggested recodifying and rearranging the regulation for the purpose of better identification and reference. In an effort to obtain greater clarity the regulation has been placed in § 130.44 and the substantive requirements have been stated separately as well as incorporated in the forms. As experience with the forms and application of the regulation accumulates, it may become advisable to amend the regulation further for clarity.

19. Several comments stated that provisions should be made for expediting reentry into a program of patients who have undergone unsuccessful voluntary withdrawal so that they are not subjected to long waiting periods and that patients should be informed of the potential for successful withdrawal. The FDA encourages such policies but believes that this should be a program decision based on the particular circumstances and not a legal requirement.

20. Several comments suggested that the protocol comment on the pregnant addict and those patients with serious illness. The FDA recognizes that these patients may present special problems in treatment and should be carefully evaluated prior to and during treatment. Experience has shown that programs have effectively dealt with patients of this type and that guidelines for every specific type of patient would be difficult to develop because treatment is usually individualized. It is recommended that caution be exercised in the treatment of the pregnant patient and that the lowest possible dosage level be maintained.

21. A number of comments called attention to the fact that problems of treatment are not uniform throughout the country and suggested that exceptions be granted where they can be justified. This concept has merit and it is felt that some degree of flexibility is needed while attempting to maintain basic standards of control. Therefore, a program may request exemptions from specific requirements of the regulation or to establish revised standards. These exemptions or revisions of standards must first be approved by the State authority and by the FDA. The regulation has been revised to detail the procedures for granting such exemptions.

22. Several comments were received regarding the distribution system established by the proposed regulation. Some individuals were concerned that the system is too limited and will prevent the drug from being available in some areas or for some special and/or emergency situation. It was suggested that, in some regions or States, wholesale pharmacy outlets be authorized to stock the drug for that area and then to transship it to approved programs, hospital pharmacies, or, in exceptional cases, selected community pharmacies. It is believed that in many instances this would provide greater security and expedite shipments. The regulation has been revised to include provisions for such outlets on the recommendation of State authorities.

23. After consideration of available data and current investigations, the Commissioner concludes that it is inappropriate to require manufacturers to develop additional data from chronic animal toxicity studies. This information is being developed through other sources. Therefore, § 130.48(b)(1)(ii) of the proposal has been deleted.

24. Numerous comments were received regarding the concept of a "satellite" and whether or not a private practitioner, a community pharmacy, and/or hospital pharmacy, could provide this kind of service. The term "satellite" was regarded as confusing and clarification of this term was requested. In addition, differentiation was needed between a program, individual components of a program, a "satellite" unit, and other organizational units. Because of the confusion connected with the term "satellite" and the number of objections it precipitated, particularly with regard to its size, the term has been deleted. In the interest of clarity, paragraphs (a) and (b) of § 130.44 have been inserted to define the terms used in the application forms.

25. Several persons commented on the approval of programs by a State authority. Some contended that the proposed regulations are inconsistent with the provisions of Public Law 92-255 regarding the responsible State authority. Others requested clarification of the sequence of approval by the various governmental authorities and the exact role of the State authority. Recourse in the event of State disapproval was requested. Since the problems of treatment are not uniform in different regions, flexibility was recommended to decentralize rule making and enforcement. This is particularly a problem in some areas where local governmental agencies are charged with the responsibility of drug abuse programing. Finally, some persons suggested prior approval of hospital pharmacies by the State authority to maintain consistency and to enable the State authorities to be informed of methadone distribution within their States. The FDA agrees that State authorities are essential in adequately controlling methadone, in assuring that the need for a methadone program exists within any specified geographic area, and in establishing criteria and guidance for program standards. The regulation has been revised to clarify the role of responsible authorities in the approval of programs, their components, and hospital or community pharmacies, and to provide a process whereby exemptions may be granted.

26. A large percentage of the comments referred to the proposal's sections concerning admission criteria, patient selection, and terminations. These comments were directed to: (a) Voluntary participation, (b) evaluation of addiction, (c) exception provisions, (d) age requirements, and (e) termination.

a. Several comments requested clarification of the term "voluntary participation" as it relates to those cases where courts or prisons may in effect require participation by providing no other reasonable alternatives. The FDA recognizes that this situation exists and has revised the regulation to provide for written informed consent of the patient. A standardized consent form for methadone treatment, Form FD 2635, "Consent to Methadone Treatment," has been added to the regulation.

b. Many of the comments indicated that the requirements for determining the state of addiction were excessive and too inflexible. They argued that determination of addiction should be based primarily on a careful history, particularly to determine a minimal period of heroin use. These comments state that withdrawal symptoms can be mimicked and that waiting periods place an unrealistic burden upon the applicant and the program. FDA agrees that flexibility is needed in this regard and the regulation has been revised to indicate that the selection of patients should be based on a careful and documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment and evidence of current physiologic dependence on morphine-like drugs.

c. Some comments expressed concern about the limited exceptions to the requirement for evidence of current physiologic dependence on narcotic drugs. These comments favored the initiation of methadone treatment for an individual who has been detoxified and believes he is compelled to start heroin use again or an individual with a documented history of heroin use who has been drug free but believes he is compelled to start heroin again. The Commissioner concludes that a program should exhaust other methods of treatment of these patients in an effort to deter such patients from reinstituting their drug use, and that use of methadone automatically under these circumstances would not be in the best interest of the patient or the public health.

d. A large number of comments addressed themselves to the use of methadone in the treatment of adolescents. Some noted that the age of initial addiction to narcotic drugs has been dropping (at least in the large metropolitan areas) and that the longer one waits to treat the adolescent addict the more difficult it would be to change his life style. These comments argued that to place limitations on treating patients under 18 would mean that many chronic, compulsive heroin users would have to experience at least a few years of criminal activity and arrests if they could not avail themselves of the limited non-drug treatment programs. Others argued that the benefits of methadone treatment, despite any possible risks due to its effects on development or the risk of creating a de novo state of addiction within this age group, far outweigh the social and medical risks of continued heroin use. They argued that special emphasis and even priority should be assigned to the adolescent heroin user to avoid an even greater public health problem in the future. These arguments pointed out that current non-drug treatment programs cannot manage the large numbers of adolescent heroin users and that detoxification alone has not been successful. The comments either stated or implied that there must be still a lower-age limit for inclusion into methadone treatment programs and many indicated that the requirements for acceptance of the adolescent heroin user into treatment differ from the requirements for the adult. A number of suggestions have been made: (i) Lower the age limit to 16 and provide special requirements for approval of those under that age; (ii) lower the age limit to 16 and permit detoxification of those below this age; (iii) state conditions for approved treatment of those under age 18 and require the submission of a protocol rather than inclusion of these patients; (iv) allow treatment of patients under age 18 with concurrence of two physicians and or approval by the State or local authority; (v) provide only supervised detoxification of patients under age 18 along with vigorous rehabilitative efforts as the therapeutic modality of choice in this age group; and (vi) maintain the pres-

ent requirements but permit continued treatment of patients under 18 who are already enrolled in the treatment program as of a given date.

After careful consideration of these comments, the Commissioner concludes that adolescent patients present unique problems of clinical evaluation and treatment which preclude unrestricted use of methadone as a modality of treatment. Preventing the creation of a de novo state of addiction, which is often difficult to do in patients under age 16, is of major concern and further complicates treatment. Further study is required to determine whether the possible risks of special toxicity and negative developmental effects of the drug outweigh the benefits which may derive from such unrestricted treatment in patients under age 16.

In view of the inadequate data concerning methadone treatment and toxicity within the adolescent group but the limited availability of other modalities of treatment, the Commissioner concludes that in certain cases treatment of patients under age 18 is justifiable.

Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on the date of publication of this regulation may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after the date of publication of this regulation unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs Form FD 2635 "Consent to Methadone Treatment". Methadone treatment of new patients between the ages of 16 and 18 years may be permitted after the date of publication of this regulation only with a documented history of two or more successful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No new patient under age 16 may be continued or started on methadone treatment after the date of publication of this regulation but these patients may be detoxified and retained in the program in a drug free state for followup and after care. Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

e. Several comments were received concerning the clinical records which indicated a need for clarification of these provisions. Some persons interpreted the statements to mean that a patient literally must be terminated (dropped) from a program or readmitted rather than understanding that this is solely a recordkeeping requirement. The paragraph has been revised to indicate that for recordkeeping purposes, if a patient misses appointments for 2 weeks without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for treatment. If the patient does return for treatment and is accepted into the program, this would be considered a readmission and so noted in the clinical record. This method of recordkeeping insures the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose).

27. There were several adverse comments regarding the requirement to participate in local, regional, or national identification systems. These comments express particular concern about the confidentiality of patient records and the identification of patients to extra-program authorities for purposes other than those related to patient care or the monitoring of programs for maintenance of program standards. The FDA is cognizant of the provisions of these statutes which provide for the confidentiality of records which are maintained in connection with the treatment of patients and has revised the statement to indicate that any identification system shall be in accord with them. Information that would identify a patient in such a system shall be kept confidential in compliance with 21 CFR Part 401, section 408 of Public Law 92-255, and section 3 of Public Law 91-513.

28. Several comments were made about the recommended dosage schedule for treatment and the guidelines for detoxification which indicate a need for clarification. These comments were critical of the rigidity or inappropriateness of the recommended dosage. The FDA is of the opinion that clinical judgment must ultimately determine the actual dosage regimen used for each patient. Consequently, with the exception of the maximum dosage level and maximum take-home dosage for maintenance treatment, the paragraphs dealing with the dosage are designated as recommended guidelines.

29. Some of the comments expressed concern over the severity of the detoxification schedule. Particular reference was made to daily reductions in dosage and the restrictions placed on length of detoxification. In view of recent data and the above comments, revisions have been made in the suggested daily reductions in dosage, but the Commissioner rejects the concept of prolonged detoxification. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of acute withdrawal symptoms to that of maintenance treatment even if the goal is eventual total withdrawal.

30. The greatest number of comments, including several thousand petition signatures from persons connected with treatment programs, objected to the more severe requirements concerning the frequency of visits and take-home privileges. It was contended that the requirements are, for many patients, contratherapeutic and ignore the social progress of patients who have been in treatment for periods of years. It was urged by many that allowance be made for the exercise of medical judgment, since strict adherence to such requirements could produce a large dropout rate followed by relapse and might handicap rehabilitation efforts. It was argued that the present schedule would bind the patient to his treatment center, interfere with jobs of addicts or cause loss of employment, and place burdens on mentally and physically ill patients. Many persons, particularly from the larger metropolitan areas, complained that this schedule would increase the program costs, make adequate staffing almost impossible, over-burden the physical facilities of a program and prevent the expansion of services. Some individuals recommended a schedule of decreasing frequency of visits as a patient continues in the program and demonstrates evidence of successful rehabilitation (e.g., employment). A number of persons suggested an initial schedule of five times per week visits and several urged no more than once weekly visits after successful stabilization.

Since January 1, 1972, the FDA in cooperation with the National Institute of Mental Health (NIMH), has undertaken an intensified inspection of all methadone treatment programs currently in operation. This inspection program has resulted in several corrective actions by the FDA to eliminate major program deficiencies. In addition, the agency has become aware of increased diversion and misuse of methadone which mandates strict control over the distribution and use of the drug in a manner similar to that proposed. For this reason, the Commissioner has rejected the comments which propose more liberal distribution and control.

Because of the information obtained through these inspections and consultation with the BNDD, the take-home privilege provisions have been revised to provide the following: The patient initially will ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. After demonstrating satisfactory adherence to the program regulations for at least 3 months, and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3-day take-home supply. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded.

3159a

United States Food and Drug Administration

Rules and Regulations

31. There were a substantial number of adverse comments received on the section of the regulation dealing with urine testing. The major objections were on economic and clinical grounds. It was contended that weekly urine testing is too expensive for patients and or programs and that the money could be spent more effectively in treatment and rehabilitation. The proposed schedule and procedure for urine testing was suggested too stringent and as interfering with patient-doctor relationship as well as interfering with clinical judgment. Some comments contended that this requirement is a violation of patient's rights and creates a police-like atmosphere. Several persons recommended a decreasing frequency of urine testing with an ultimate schedule of random urine sampling a few times yearly. A few persons suggested testing for other drugs such as barbiturates, amphetamines, cocaine, and, once treatment was initiated, for methadone.

For the reasons stated in paragraph 30 above and in the interest of providing accurate urine test results, the Commissioner rejects the comments suggesting more lenient scheduling and has also made several revisions in the requirements. Testing randomly for barbiturates and amphetamines and other drugs if indicated at monthly intervals is an added requirement based on evidence of increased abuse of these substances. In addition, provision is made for the use of only those laboratories which participate in and are approved by any proficiency testing program designated by the FDA. Any changes made in laboratories used for urine testing shall have prior approval of the FDA.

32. Several persons commented on use of particular dosage forms in order to prevent diversion and abuse and a requirement for poison prevention packaging. The regulation provides that dosage forms used in programs shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion. Although tablet, syrup concentrate, or other formulations may be distributed, only a liquid formulation may be administered or dispensed. Regarding poison prevention packaging, the FDA has promulgated regulations under the Poison Prevention Packaging Act of 1970 which require that controlled substances be packaged for household use in "special packaging" which is designed to prevent poisoning in children. All methadone dispensed for outpatient use shall be in such containers as specified in 21 CFR 295.2(a)(4) of the regulations, published in the FEDERAL REGISTER of April 27, 1972 (37 F.R. 8433).

33. Some comments contended that the closed distribution system established in the proposal is outside the legal authority of the Food and Drug Administration, and that the Commissioner must retain the drug under exclusively investigational controls, approve it for unrestricted and uncontrolled distribution and dispensing, or withdraw it completely from use. The Commissioner rejects this contention. Congress intended to provide in the Federal Food, Drug, and Cosmetic Act sufficient flexibility to assure the safe and effective distribution and use of all drugs. Most of the comments recognized the legal validity and factual justification for utilizing a controlled system of distribution in the unique circumstances posed by methadone. Nothing in the law precludes concurrent use of both IND and NDA controls, and comments so stated. Counsel for the Food and Drug Administration has reviewed the final regulations and has provided his opinion that they are authorized by the Act.

34. Questions were raised about the procedure for denial or revocation of approval of a program or any portion thereof. Because the new regulation provides for approval of methadone as a new drug and removes it from what was previously exclusively an investigational status, new procedures for denial or revocation of approval are appropriate. The final regulations therefore provide that denial or revocation of a program or any portion thereof will initially be the subject of an informal conference with the Director of the Bureau of Drugs. The applicant then has an opportunity to appeal an adverse decision to the Commissioner who, if he finds that the applicant cannot justify approval, will issue a notice of opportunity for a hearing with respect to the matter in the same manner as for withdrawal of an NDA or portion thereof.

35. For the reasons stated in the FEDERAL REGISTER of April 6, 1972 (37 F.R. 6940), and in this order, the Commissioner concludes that there is a lack of substantial evidence that methadone is safe and effective for detoxification, analgesia, or antitussive use under the conditions of use that presently exist. Therefore, notice is given to the holders of the new drug applications for methadone that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new drug applications and all amendments and supplements thereto:

1. Methadone (Dolophine) HCl Tablets, Injectable, Suppository; by Eli Lilly & Co., Box 618, Indianapolis, IN 46206. (NDA 6134).

2. Methadone HCl Tablet, Injectable; by Hoffmann-LaRoche Inc., Nutley, N.J. 07110. (NDA 6305).

3. Methadone HCl Injectable, Tablets, Elixir; by Parke, Davis & Co., Joseph Campau Avenue, At the River, Detroit, MI 48232. (NDA 6310).

4. Methadone HCl Tablets, Injectable; by the Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002. (NDA 6311).

5. Methadone HCl Ampuls; by S. E. Massengill Co., 527 Fifth Street, Bristol, TN 37620. (NDA 6345).

6. Methadone HCl Tablets, Injectable; by Wm. S. Merrell Co., Div. Richardson-Merrell Inc., 110 E. Amity Road, Cincinnati, OH 45215. (NDA 6370).

7. Methadone HCl Tablets; by Mallinckrodt Chemical Works, 3600 North Second Street, Box 5439, St. Louis, MO 63160. (NDA 6383).

8. Methadone (Analgesic) HCl Tablets, Elixir, Injectable; by S. F. Durst & Co., Inc., 5317 North Third Street, Philadelphia, PA 19120. (NDA 6504).

A notice of oportunity for hearing, published elsewhere in this issue of the FEDERAL REGISTER, states:

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicants an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicants are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail themselves of the opportunity for a hearing. Failure of an applicant to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no applicant elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the applications.

If an applicant elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug applications should not be withdrawn, together with a well-organized and full factual analysis of the data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant warrants the conclusion that there exists substantial evidence demonstrating the safety and effectiveness of the product under existing conditions of use, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the applications and data submitted by the applicants in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the applications, the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicants, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

New drug application holders may submit, within 30 days after the date of publication of this notice in the FEDERAL REGISTER, a supplemental new drug application requesting approval for the manufacture and distribution of methadone pursuant to §§ 130.44 and 130.48(b). Upon submission and approval

BEST COPY AVAILABLE

of any such supplement the Commissioner will rescind this notice of opportunity for hearing for that applicant.

The Commissioner concludes that § 130.44 should be revised (see paragraph 18 of the preamble) and that § 130.48 should be amended to add a new paragraph (b) listing methadone as a drug subject to new-drug application approval and special studies, records and reports requirements. Therefore, pursuant to the provisions of sections 505 and 701(a), of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 355, 371(a)), section 303(a) of the Public Health Service Act as amended (42 U.S.C. 242a(a)), and section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 257(a)), and under authority delegated to the Commissioner (21 CFR 2.120), Subchapter C of Title 21, Code of Federal Regulations; is amended as follows:

1. Section 130.44 is revised to read as follows:

§ 130.44 Conditions for use of methadone.

(a) *Definitions.* (1) An individual is "drug dependent" when his addiction reaches a stage where a daily administration of heroin or other morphine-like drugs is required to avoid the onset of signs of withdrawal.

(2) "Detoxification treatment" using methadone is the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of these drugs.

(3) "Maintenance treatment" using methadone is the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin. An eventual drug free state is the treatment goal for patients but it is recognized that for some patients the drug may be needed for long periods of time.

(4) "State authority" means the State authority designated pursuant to section 409 of Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, or in lieu thereof any other State authority designated by the Governor for purposes of exercising the authority under this section. If no State authority is so designated, the provisions in this section relating to approval by the State authority shall be inapplicable with respect to that State.

(b) *Organizational structures and approval requirements.*—(1) *Methadone treatment program.*—(i) *Defined.* A methadone treatment program is defined as a person or organization furnishing a comprehensive range of services using methadone for the detoxification and or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations. If there is a centralized organizational structure, consisting of a primary facility and other outpatient facilities, all of which conduct initial evaluation of patients and administer or dispense medication, both the primary facility and each outpatient facility shall be considered a separate program, even though some services may be shared (e.g. the same hospital or rehabilitative services).

(ii) *Services.* A methadone treatment program, in addition to providing medication and/or evaluation, shall provide, as a minimum, counseling, rehabilitative, and other social services (e.g. vocational and educational guidance, employment placement), which will help the patient become a well functioning member of society. These services should normally be made available at the primary outpatient facility, but the program sponsor is permitted to enter into a formal, documented agreement with private or public agencies, organizations or institutions for these services if they are available elsewhere. Evidence will be required to demonstrate that the services are fully available and are being utilized.

(iii) *Hospital affiliation.* If a program is not physically located within a hospital which has agreed to provide any needed medical care for drug related problems for the program's patients, there shall be a formal, documented agreement between the program sponsor and a responsible hospital official demonstrating that hospital care, both inpatient and outpatient, is fully available to any patient who may need it for such problems. It is suggested that the program sponsor enter into an agreement with the hospital official to provide general medical care for patients. Neither the program sponsor nor the hospital are required to assume financial responsibility for the patient's medical care.

(iv) *Private practitioners.* A private practitioner constitutes a separate program if he conducts initial evaluation of patients, administers and dispenses medication, provides a comprehensive range of services, and otherwise meets all of the requirements for a program established in this section. A private practitioner who qualifies and is approved as a program is permitted to serve as many patients as he desires, but will be required to meet all the requirements of this regulation, including staffing requirements, unless permission is granted by the Food and Drug Administration and the State authority for exemption from or revision of these requirements.

(v) *Program approval.* In order lawfully to operate a methadone treatment program, each separate program, whether an out-patient facility or a private practitioner, shall submit the applications specified in this section simultaneously to the Food and Drug Administration and the State authority and shall receive the approval of both, except as provided for in paragraph (h)(5) of this section. Before granting approval the Food and Drug Administration will first consult with the Bureau of Narcotics and Dangerous Drugs to determine compliance with Federal controlled substances laws. Each physical location within any program shall be identified and listed in the approved application. At the time of application for approval the program sponsor shall indicate whether medication will be administered or dispensed at the facility. If medication is to be administered or dispensed at a location not previously approved for this purpose, prior approval from both authorities shall be obtained. If a facility in which medication is administered or dispensed is deleted by a program the Food and Drug Administration and the State authority shall be notified within 3 [illegible]. Addition or deletion of facilities which provide services other than administering or dispensing medication is permitted with notification within 3 weeks to the Food and Drug Administration and the State authority.

(2) *Methadone treatment medication unit.*—(i) *Defined.* A methadone treatment "medication unit" is a facility established by a program sponsor as part of his program, from which licensed private practitioners and community pharmacists are permitted to administer or dispense methadone. These medication units may also collect urine for urine testing for narcotic drugs. Any such facility shall be geographically dispersed from the primary facility and other medication units that have been established. The enrollment in a medication unit shall be of reasonable size in relation to the space available for treatment and the size of the staff at the facility, and may not exceed 30 patients.

(ii) *Referral.* The patient shall be stabilized at his optimal dosage level before he may be referred to a medication unit. Since the medication unit will not provide a range of services, the program sponsor shall determine that the patient to be referred is not in need of frequent counseling, rehabilitative, and other services which are only available at the primary program facility. A patient may not be referred to a medication unit before he has demonstrated progress towards rehabilitation. The nature of this progress shall be entered in the patient's record.

(iii) *Responsibility for patient.* After a patient is referred to a medication unit, the program sponsor retains continuing responsibility for the patient's care. The program sponsor is responsible for assuring that the patient reports weekly for urinalysis at either the primary facility or the medication unit and receives needed medical and social services at least monthly at the primary facility.

(iv) *Services.* Medication units are limited to the administering or dispensing of medication and the collection of urine for urine testing, following the procedures outlined in paragraph (d)(6)(ii) of this section. If a private practitioner wishes to provide other services in addition to administering or dispensing medication and collecting urine samples, he shall be considered a program and shall be required to submit an application for separate approval.

(v) *Medication unit approval.* In order lawfully to operate a medication unit, the program shall obtain approval for each separate unit from both the Food

and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section. Approval will be based on the distribution of these units within a particular geographic area. Any new medication unit shall receive such approval before commencing operation.

(vi) *Revocation of approval.* If the primary program's approval is revoked by the Food and Drug Administration the approval for the medication unit is automatically revoked. If a particular medication unit's approval is revoked, the approval of the primary program will remain in effect unless it is also revoked.

(vii) *Methadone supply.* The medication unit will receive its supply of the drug directly from the stocks of the primary facility. Only persons permitted to administer or dispense the drug or security personnel licensed or otherwise authorized by State law may deliver the drug to a medication unit.

(3) *Organizational structure; central administration.* (i) The program sponsor shall submit to the Food and Drug Administration and the State authority a description of the organizational structure of the program applying for approval, listing the name of the person responsible for the particular program, the address, and the responsibilities of each facility or medication unit. The sources of funding for each program shall be listed and the name and address of each governmental agency providing funding shall be stated.

(ii) Where two or more programs share a central administration (e.g., a city or state-wide organization), the person responsible for the organization (Administrator) shall be listed as program sponsor for each separate program participating. An individual program shall indicate its participation in the central organization at the time of its application. The Administrator is permitted to fulfill all recordkeeping and reporting requirements for these programs, but it is emphasized that the programs will continue to receive separate approval.

(iii) One individual is permitted to assume primary medical responsibility for more than one program and be listed as medical director. If an individual assumes medical responsibility for more than one program, the feasibility of such an arrangement shall be documented and attached to the application.

(4) *Prohibition against unapproved use of methadone.* No individual, practitioner, organization, or legal entity, may prescribe, administer, or dispense methadone without prior approval by the Food and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section, unless specifically exempted by this section.

(c) *Conditions for approval of the use of methadone in a treatment program.*—(1) *Applicants.* An individual listed as program sponsor for a treatment program using methadone need not personally be a licensed practitioner but shall employ a licensed physician for the position of medical director. Persons responsible for administering or dispensing the medication shall be practitioners as defined by section 102(20) of the Controlled Substances Act (21 U.S.C. 802(20)) licensed to practice by the State in which the program is to be established.

(2) *Assent to regulation.* A person who sponsors a methadone treatment program, and any person responsible for a particular program, shall agree to adhere to all the rules, directives, and procedures, set forth in this regulation, and any regulation regarding the use of methadone which may be promulgated in the future. The program sponsor, and person responsible for a particular program, shall agree to assume responsibility for any practitioners, employees, agents, or other individuals providing services, who work in their programs at the primary facility or at other facilities or medication units. The responsible persons shall agree to inform these people of the provisions of this regulation and to monitor their activities to assure compliance with the provisions. The Food and Drug Administration and the State authority shall be notified within 3 weeks of any replacement of the program sponsor or medical director. Activities in violation of this regulation may give rise to the sanctions set forth in paragraph (i) of this section.

(3) *Facilities.* To obtain program approval, the applicant shall demonstrate that he will have access to adequate physical facilities to provide all necessary services. The physical facilities should be sufficiently spacious and well maintained to provide appropriate conditions for conducting individual and/or group counseling.

(4) *Submission of proper applications.* The following applications shall be filed simultaneously with both the Food and Drug Administration and the State authority.

(i) Form FD 2632 "Application for Approval of Use of Methadone in a Treatment Program." This form, set forth in paragraph (k)(1) of this section, shall be completed and signed by the program sponsor and submitted in triplicate to the Food and Drug Administration and the State authority.

(ii) Form FD 2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program." This form, set forth in paragraph (k)(2) of this section, shall be completed and signed by each licensed physician authorized to administer or dispense methadone and submitted in triplicate to the Food and Drug Administration and the State authority. The names of any other persons licensed by law to administer or dispense narcotic drugs working in the program shall be listed, even if they are not at present responsible for administering or dispensing the drug.

(iii) Form FD 2634 "Annual Report for Treatment Program Using Methadone." This form, set forth in paragraph (k)(3) of this section, shall be completed and signed by the program sponsor for every program over which he has responsibility for each calendar year of operation. It shall be submitted in triplicate to the Food and Drug Administration and the State authority on or before January 30 of each year.

(5) *State and Federal approval of treatment programs.* Treatment programs using methadone shall have been reviewed by the State authority and must conform to all State requirements for conducting a methadone treatment program. The Food and Drug Administration must have received notification of the program's approval by the State agency. Only after the State authority has given its approval will the Food and Drug Administration grant approval to a program. The Food and Drug Administration will also revoke approval when recommended by the State authority. If State approval of a program is denied or revoked the program shall have a right of appeal to the Commissioner, as provided for in paragraph (h)(5) of this section. Prior to granting or withholding approval, the Food and Drug Administration will consult with the Bureau of Narcotics and Dangerous Drugs to determine the applicant's compliance with Federal controlled substances laws. No shipment of methadone may lawfully be made to any program which has not received approval from the Food and Drug Administration. The program sponsor will receive notification of approval or denial or a request for additional information, when necessary, within 60 days after receipt of the application by the Food and Drug Administration.

(d) *Requirements for operation of methadone treatment program.*—(1) *Description of facilities.* A program shall have ready access to a comprehensive range of medical and rehabilitative services. The name, address, and description of each hospital, institution, clinical laboratory, or other facility available to provide the necessary services shall be given to the Food and Drug Administration and the State authority. This listing shall include the name and address of each medication unit.

(2) *Approximate number of patients to be treated.* The program sponsor shall submit to the Food and Drug Administration and the State authority an approximation of the number of patients who will be treated, based on past history, addict population in the area, treatment capacity, or other relevant information.

(3) *Minimum admission standards.*—(i) *Voluntary participation; consent form.* Each patient shall be fully informed concerning the possible risk associated with the use of methadone. Participation in any program shall be voluntary. The person responsible for the program shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under age 18) sign, with full knowledge and understanding of its contents, the first part of Form FD 2635 "Consent for Methadone Treatment" set forth in paragraph (k)(4) of this section and the parents or guardians of patients under age 18 sign the second part of that form.

(ii) *Physiologic addiction standards; records.* The mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care

shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (e.g., medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.

(iii) *Exceptions to physiologic addiction standards; justification.* An exception to the requirement for evidence of current physiologic dependence on narcotic drugs will be allowed only under exceptional circumstances. For example, maintenance treatment may be indicated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution, if an individual has a predetention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institution. Justification for any such exception shall be noted in the patient's record.

(iv) *Special limitations; treatment of patients under age 18.* (*a*) The safety and effectiveness of methadone when used in the treatment of adolescents has not been proven by adequate clinical study. Special procedures are therefore necessary to assure that patients under age 16 will not be admitted to a program and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

(*b*) Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on the date of publication of this regulation may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after the date of publication of this regulation unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs Form FD 2635 "Consent to Methadone Treatment," set forth in paragraph (k)(4) of this section. Methadone treatment of new patients between the ages of 16 and 18 years will be permitted after December 15, 1972, only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after December 15, 1972, but these patients may be detoxified and retained in the program in a drug free state for follow-up and after care.

(*c*) Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

(v) *Denial of admission.* If in the professional judgment of the medical director a particular patient would not benefit from methadone treatment, he may be refused such treatment even if he meets the admission standards.

(vi) *Patient evaluation; admission record.* An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, a physical examination, and any laboratory or other special examinations indicated in the judgment of the attending physician. It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.

(*a*) *Personal history.* A personal history record will be completed for each patient accepted for admission and will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types and prior treatment for drug abuse.

(*b*) *Medical history.* A thorough medical history record will be completed for each patient accepted for admission.

(*c*) *Physical examination.* The findings of a comprehensive physical examination will be recorded.

(4) *Staffing requirements.* As a minimum standard for the staffing of a treatment program there shall be the equivalent of one full-time physician licensed by and registered by State or Federal law to order, dispense, and administer methadone, two nurses (registered nurse or licensed practical nurse), and four counselors, for every 300 patients receiving maintenance treatment. The staffing pattern may be varied to fit the operational pattern and population characteristics of the program, but there shall always be at least one medical or osteopathic physician available for initial medical evaluation and follow-up care and to supervise the patient medication schedules for each 300 patients. This staffing pattern is not the recommended pattern, but the minimum staffing pattern acceptable.

(5) *Acess to a range of services.* A treatment program shall provide a comprehensive range of medical and rehabilitative services to its patients. These services normally should be provided at the primary facility, but the program sponsor may enter into formally documented agreements with other public or private agencies, institutions, or organizations to render these services. Such facilities must be [illegible] ease of access to th[illegible] not furnished at the primary facility shall be listed and the arrangements to furnish these services shall be documented when application for approval is submitted to the Food and Drug Administration and the State authority. Modification of the services shall be submitted in triplicate to the Food and Drug Administration as services are added or deleted.

(6) *Minimum procedures for ongoing care.*—(i) *Dosage and administration requirements—(a) Form; packaging.* The methadone shall be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, syrup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage will be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion and packaged for outpatient use in special packaging as required by § 295.2 of this chapter. Any take-out medication shall be labeled with the treatment center's name, address and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

(*b*) *Detoxification treatment.* In detoxification the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but could be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. Forty milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2-day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syn-

drome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

(c) *Maintenance treatment; special considerations for a pregnant patient.* (1) In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs, but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxication. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g. if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10 milligram doses may be administered as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, up to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on the date this regulation becomes effective who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams, prior approval from State authority and the Food and Drug Administration shall be obtained beginning on March 15, 1973. For take-home doses above 100 milligrams per day, prior approval from the State authority and the Food and Drug Administration shall be obtained beginning on June 13, 1973. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

(2) Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

(d) *Authorized dispensers of methadone; responsibility.* Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may only be a pharmacist, registered nurse, or licensed practical nurse depending upon the State regulations regarding narcotic drug dispensing and administering. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule will be recorded and signed by the licensed practitioner.

(7) *Frequency of attendance; take-home medication.*—(i) *For detoxification, the drug shall be administered daily under close observation.* In maintenance treatment the patient will initially ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months, and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education, or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3-day take-home supply. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under observation may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In these circumstances the reasons for providing additional medication will be recorded. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g. a licensed practitioner) may deliver or obtain the medication.

(ii) *Urine testing—(a) Schedule of testing; substances tested for.* In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected at the program's primary facility or at the medication unit.

(b) *Method of collection.* Urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated.

(c) *Laboratories.* Laboratories used for urine testing shall participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes made in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

(iii) *Patient's clinical record.* An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD–1639, "Drug Experience Report," any significant physical or psychological disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record(s).

(8) *Discontinuation of methadone use.* All patients in treatment will be given careful consideration for discontinuation of methadone use, especially after reaching a 10–20 milligram dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director.

(9) *Record of drug dispensing.* Accurate records traceable to specific pa-

tients shall be maintained showing dates, quantity, and batch or code marks of the drug dispensed. These records shall be retained for a period of 3 years.

(10) *Security of drug stocks.* Adequate security shall be maintained over stocks of methadone, over the manner in which it is administered or dispensed, over the manner in which it is distributed to medication units, and over the manner in which it is stored to guard against theft and diversion of the drug. The security standards for the distribution and storage of controlled substances as required by the Bureau of Narcotics and Dangerous Drugs (§§ 301.72–301.76 of this title) shall be met by the program.

(11) *Inspections of programs; patient confidentiality.* Inspection of a program may be undertaken by the State authority, by the Food and Drug Administration and by the Bureau of Narcotics and Dangerous Drugs in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except (i) when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, (ii) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (iii) when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provision of 21 CFR Part 401 shall be followed.

(12) *Exemptions from specific program standards.*—(i) A program is permitted, at the time of application or any time thereafter, to request exemption from or revision of specific program standards. The rationale for an exemption or revision shall be thoroughly documented in an appendix to be submitted with the application or at some later time. An example of a case in which an exemption might be granted would be for a private practitioner who wishes to treat a limited number of patients and requests exemption from some of the staffing and service standards in a nonmetropolitan area with few physicians and no rehabilitative services geographically accessible. The Food and Drug Administration will approve such exemptions or revisions of program standards at the time of application with the concurrence of the State authority.

(ii) The Food and Drug Administration has the right to withhold the granting of an exemption until such time as a program is in actual operation in order to assess if the exemption is necessary. If periodic inspections of the program reveal that discrepancies or adverse conditions exist, the Food and Drug Administration shall reserve the right to revoke any or all exemptions previously granted.

(13) *Additional reporting requirements.*—(i) *Deaths.* The program sponsor shall report any patient death which is considered methadone related to the Food and Drug Administration within 2 weeks, using Form FD–1639 "Drug Experience Report."

(ii) *Newborns.* The program sponsor shall report to the Food and Drug Administration the birth of any child to a female patient, if the newborn is premature or shows any adverse reactions which, in the opinion of the attending physician, are due to methadone, within 1 month of the birth, using Form FD–1639 "Drug Experience Report."

(e) *Multiple enrollments.*—(1) *Administering or dispensing to patients enrolled in other programs.* There is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone for the purpose of self-administration or illicit marketing. Therefore, except in an emergency situation, methadone shall not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone.

(2) *Patient attendance requirements.* The patient shall always report to the same treatment facility unless prior approval is obtained from the program sponsor for treatment at another program. Permission to report for treatment at the facility of another program shall be granted only in exceptional circumstances and shall be noted on the patient's clinical record.

(3) *Multiple enrollment prevention.* To prevent multiple enrollments, the program shall agree to participate in any patient identification system that exists or is designated and approved by the Food and Drug Administration. Information that would identify a patient shall be kept confidential in compliance with Part 401 of this title.

(f) *Conditions for use of methadone in hospitals for analgesia in severe pain, for detoxification, and for temporary maintenance treatment.*—(1) *Form.* The drug may be administered or dispensed in either oral or parenteral form.

(2) *Use of methadone in hospitals.*—(i) *Approved uses.* Methadone is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients, and for analgesia in severe pain for hospitalized patients and outpatients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay or whose enrollment in a program which has approval for maintenance treatment using methadone has been verified. Any hospital which already has received approval under this paragraph (f) may be permitted to serve as a temporary methadone treatment program when an approved methadone treatment program has been terminated and there is no other facility immediately available in the area to provide methadone treatment for the patients. The Food and Drug Administration may give this approval upon the request of the State authority or the hospital, when no State authority has been established.

(ii) *Individual responsible for supplies.* The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone shall be submitted to the Food and Drug Administration and the State authority. Individuals not authorized by Federal or State law shall not receive supplies of methadone.

(iii) *General description.* A general description of the hospital including the number of beds, specialized treatment facilities for drug dependence, and nature of patient care undertaken shall be submitted.

(iv) *Anticipated quantity of drug needed.* The anticipated quantity of methadone needed per year shall be submitted.

(v) *Records.* The hospital shall maintain accurate records showing dates, quantity, and batch or code marks of the drug used for in patient and out patient treatment. The records shall be retained for a period of 3 years.

(vi) *Inspections.* The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential except (*a*) when it is necessary to make followup investigations on adverse effect information related to the drug, (*b*) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (*c*) when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of Part 401 of this title shall be followed. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(vii) *Approval of hospital pharmacy.* Application for a hospital pharmacy to provide methadone for analgesia, detoxification and temporary treatment will be submitted to the Food and Drug Administration and the State authority and shall receive approval from both, except as provided for in paragraph (h)(5) of this section. Within 60 days after receipt of the application by the Food and Drug Administration, the applicant will receive notification of approval or denial or a request for additional information, when necessary.

(viii) *Approval of shipments to hospital pharmacies.* Before a hospital pharmacy may lawfully receive shipments of methadone for use as an analgesic for severe pain and for detoxification or temporary maintenance treatment, a responsible hospital official shall complete,

sign, and file in triplicate with the Food and Drug Administration and the State authority Form FD 2636, "Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification and Temporary Maintenance Treatment" set forth in paragraph (k)(5) of this section and shall receive a notice of approval thereof from the Food and Drug Administration.

(ix) *Sanctions.* Failure to abide by the requirements described in this section may result in revocation of approval to receive shipments of methadone, seizure of the drug supply on hand, injunction, and criminal prosecution.

(3) *Treatment of outpatients.*—(i) If in a physician's professional judgment methadone would be the drug of choice as an analgesic for treating a patient in severe pain, the drug will be available for use on an out-patient basis from an approved hospital pharmacy, or in a remote area from an approved community pharmacy. Prior to filing a physician's prescription for methadone for outpatients, the pharmacy shall obtain from the physician a statement indicating that all such prescriptions written by him will be limited to use for analgesia in severe pain. The physician shall agree to maintain records to substantiate such use. These records will be available in the hospital or made available at the request of the hospital administrator. In remote areas the approved community pharmacy is permitted to maintain these records or they may be forwarded to the State authority. On January 30 of each year, the names and addresses of all physicians who prescribed methadone for analgesia on an outpatient basis during the previous year shall be reported to the Food and Drug Administration.

(ii) Prescriptions for analgesia may be filled only if they are written by a physician who has submitted the required statement to the approved hospital or community pharmacy.

(4) *Shipments to remote areas.* In remote areas or in certain exceptional circumstances where there are no approved hospitals, community pharmacies may be approved by the Food and Drug Administration to receive shipments of methadone for administering or dispensing for analgesia upon the recommendation of the State authority and after consultation with the Bureau of Narcotics and Dangerous Drugs.

(g) *Confidentiality of patient records.*—(1) Except as provided in subparagraph (2) of this paragraph, disclosure of patient records maintained by any program shall be governed by the provisions of Part 401 of this title, and every program shall comply with the provisions of that part. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(2) In addition to the restrictions upon disclosure in Part 401 of this title, and in accordance with the authority conferred by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), every program is hereby further authorized to protect the privacy of patients therein by withholding from all persons not employed by such program or otherwise connected with the conduct of its operations the names or other identifying characteristics of such patients under any circumstances under which such program has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of a patient. Programs may not be compelled in any Federal, State, or local civil, criminal, administrative, or other proceedings to furnish such information, but this subparagraph does not authorize the withholding of information authorized to be furnished pursuant to § 401.44 of this title nor does it invalidate any legal process to compel the furnishing of information in accordance with § 401.44 of this title. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(3) A treatment program or medication unit or any part thereof, including any facility or any individual, shall permit a duly authorized employee of the Food and Drug Administration to have access to and to copy all records relating to the use of methadone. Patient identities shall be revealed (i) when it is necessary to make follow-up investigations on adverse effect information related to the drug, (ii) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (iii) when it is necessary to verify records relating to any approval or any portion thereof under this section. The Food and Drug Administration will retain such identities in confidence pursuant to § 401.44 of this title and shall reveal them only when necessary in a related administrative or court proceeding.

(h) *Denial or revocation of approval.*—(1) Complete or partial denial or revocation of approval of an application to receive shipments of methadone (Forms FD 2632 "Application for Approval of Use of Methadone in a Treatment Program" and FD 2636 "Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification and Maintenance Treatment") may be proposed to the Commissioner of Food and Drugs by the Director of the Food and Drug Administration's Bureau of Drugs, on his own initiative or at the request of representatives of the Bureau of Narcotics and Dangerous Drugs, National Institute of Mental Health, the State authority, or any other interested person.

(2) Before presenting such a proposal to the Commissioner, the Director of the Bureau of Drugs or his representative will notify the applicant in writing of the proposed action and the reasons therefor and will offer him an opportunity to explain the matters in question in an informal conference and/or in writing within 10 days after receipt of such notification. The applicant shall have the right to hear and to question the information on which the proposal to deny or revoke approval is based, and may present any oral or written information and views.

(3) If the explanation offered by the applicant is not accepted by the Bureau of Drugs as sufficient to justify approval of the application, and denial or revocation of approval is therefore proposed, the Commissioner will evaluate information obtained in the informal hearing before the Director of the Bureau of Drugs. If he finds that the applicant has failed to submit adequate assurance justifying approval of the application, he shall issue a notice of opportunity for hearing with respect to the matter pursuant to § 130.14 and the matter shall thereafter be handled in accordance with established procedures for denial or revocation of approval of a new drug application. If the Secretary determines that there is an imminent hazard to health, revocation of approval will become effective immediately and any administrative procedures will be expedited. Upon revocation of approval of an application, the Commissioner will notify the applicant, the State authority, the Bureau of Narcotics and Dangerous Drugs, and all other appropriate persons that the applicant may no longer receive shipments of methadone, and will require the recall of all methadone from the applicant. Revocation of approval may also result in criminal prosecution.

(4) Denial or revocation of approval may be reversed when the Commissioner determines that the applicant has justified approval of the application.

(5) A treatment program or medication unit or any part thereof, including any facility or any individual, may appeal to the Food and Drug Administration a complete or partial denial or revocation of approval by the State authority unless the denial or revocation is based upon a State law or regulation. The appeal shall first be made to the Director of the Bureau of Drugs, who shall hold an informal conference on the matter in accordance with subparagraph (2) of this paragraph. The State authority may participate in the conference. The appellant or the State authority may appeal the Director's decision to the Commissioner, who shall decide the matter in accordance with subparagraph (3) of this paragraph. If the Commissioner denies or revokes approval, such action shall be handled in accordance with subparagraph (3) of this paragraph. The Commissioner may not grant or retain Food and Drug Administration approval if he finds that the appellant is not in compliance with all applicable State laws and regulations and with this section.

(i) *Sanctions.*—(1) *Program sponsor or individual responsible for a particular program.* If the program sponsor or the person responsible for a particular program fails to abide by all the requirements set forth in these regulations, or

fails to adequately monitor the activities of those employed in the program, he may have the approval of his application revoked, his methadone supply seized, an injunction granted precluding operation of his program, and criminal prosecution instituted against him.

(2) *Persons responsible for administering or dispensing methadone.* If a person responsible for administering or dispensing methadone fails to abide by all the requirements set forth in these regulations, criminal prosecution may be instituted against him, his drug supply may be seized, the approval of the program may be revoked, and an injunction may be granted precluding operation of the program.

(j) *Requirements for distribution of methadone by manufacturers.*—(1) *Distribution requirements.* Shipments of the drug are restricted to direct shipments by manufacturers of methadone to approved treatment programs using methadone, to approved hospital pharmacies, and to approved selected community pharmacies. If requested by a manufacturer or State authority, wholesale pharmacy outlets in some regions or States may be authorized to stock methadone for that area and then trans-ship the drug to approved methadone treatment programs and approved hospital and community pharmacies. Alternative methods of distribution will be permitted if they are approved by the Food and Drug Administration and the State authority. Prior to any approval of an alternative method of distribution there will be consultation with the Bureau of Narcotics and Dangerous Drugs to assure compliance with its regulations regarding controlled substance distribution.

(2) *Information regarding approved programs, hospitals, and community pharmacies.* The Food and Drug Administration will provide methadone manufacturers and the public with the names and locations of programs, hospitals, and selected community pharmacies that have been approved to receive shipments of the drug. All information contained in the forms set out in paragraph (k) of this section is available for public disclosure except for names or other identifying information with respect to patients.

(3) *Acceptance of delivery.* Delivery shall only be made to a licensed practitioner employed at the facility. At the time of delivery the licensed practitioner shall sign for the methadone and place his specific title and identification number on any invoice. Copies of these signed invoices shall be kept by the manufacturer.

(k) *Program forms.*—(1) *Treatment Program Application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD 2632 Application for Approval of Use of Methadone in a Treatment Program

Name or other identification of program.....

Address .....

Name of program sponsor.....

Commissioner,
Food and Drug Administration,
Bureau of Drugs (BD-106),
Rockville, Md. 20852.

DEAR SIR: As the person responsible for this program, I submit this request for approval of a treatment program using methadone to provide detoxification and maintenance treatment for narcotic addicts in accordance with § 130.44 of the new drug regulations. I understand that failure to abide by the requirements described below may cause revocation of approval of my application, seizure of my drug supply, an injunction, and criminal prosecution.

I. Attached is the name, complete address, and a summary of the scientific training and experience of each physician and all other professional personnel having major responsibilities for the program and rehabilitative efforts, and a signed Form FD 2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program" for every licensed practitioner authorized to prescribe, dispense, or administer methadone under the program. (If the Medical Director of this program has been listed for a program in a previous application, the feasibility of serving as Medical Director for this program must be documented and this documentation attached to this application.)

II. Attached is a description of the organizational structure of this program and the name and complete address of any central administration or larger organizational structure to which this program is responsible.

III. Attached is a listing of the sources of funding for this program. (The name and address for each governmental agency providing funding must be provided.)

IV. The program shall have ready access to a comprehensive range of medical and rehabilitative services. Attached is the name, address, and description of each hospital, institution, clinical laboratory facility, or other facility available to provide the necessary services and a statement for each facility as to whether or not methadone will be administered or dispensed at that facility. These facilities shall comply with any guidelines established by Federal or State authorities. (This listing should include the address of each medication unit. If any medical or rehabilitative service is not available at the primary facility, there must be a formal, documented agreement with private or public agencies, organizations, or institutions for these services.)

V. Attached is a statement of the approximate number of addicts to be included in the program.

VI. The following minimal treatment standards shall be followed:

A. A statement shall be given to the addicts to inform them about the program. A voluntary request and consent Form FD 2635 "Consent to Methadone Treatment" shall be signed by each patient. Participation in the program shall be voluntary.

B. I concur that the mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. (Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation—(medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.)

C. An exception to the requirement for evidence of current physiologic dependence on narcotic drugs will be allowed under exceptional circumstances. For example, methadone treatment may be initiated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution if an individual has a pre-detention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institution. Justification for any such exception shall be noted on the patient's record.

D. Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on December 15, 1973 may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after such date unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs consent form. Form FD 2635 "Consent to Methadone Treatment." Methadone treatment of new patients between the ages of 16 and 18 years of age will be permitted after such date only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after such date but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

VII. An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, a physical examination, and any laboratory or other special examinations as indicated in the judgment of the attending physician. (It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.)

A. A personal history record will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types, and prior treatment for drug abuse.

B. Medical history. A thorough medical history record will be completed for each patient accepted for admission.

C. Physical examination. The findings of a comprehensive physical examination will be recorded.

VIII. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system exists and I state my

[illegible] to participate in any system that may be developed and approved by the Food and Drug Administration unless I notify the Food and Drug Administration, in writing, to the contrary. I understand failure to participate may cause revocation of approval of my application. Except in an emergency situation, methadone will not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone. Except as provided in item XV of this form, information that could identify the patient will be kept confidential in compliance with 21 CFR Part 401.

IX. The following minimal procedures will be used for ongoing care.

A. Dosage and administration for detoxification and maintenance treatment:

1. Methadone will be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, sirup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion, and packaged for outpatient use in special packaging as required by 21 CFR 295.2. Any take-out medication shall be labeled with the treatment center's name, address, and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but may be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. Forty milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2-day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxification. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 6 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10-milligram doses may be repeated as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on December 15, 1972 who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams or, beginning June 13, 1973, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the Food and Drug Administration and the State authority. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

4. Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

5. Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may be a pharmacist, registered nurse, or licensed practical nurse, depending upon the State regulations regarding narcotic drug dispensing and administering. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule shall be recorded and signed by the licensed practitioner.

6. For detoxification, the drug shall be administered daily under close observation. In maintenance treatment the patient initially will ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education, or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to 3 times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2 day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3 day take-home supply. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under supervision may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In such circumstances the reasons for providing additional medication will be recorded in the clinical record. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g., a licensed practitioner) may deliver or obtain the medication.

B. In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines, and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated. Laboratories used for urine testing shall participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

C. An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD–1639, "Drug Experience Report", any significant physical or psychologic disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record.

D. All patients in maintenance treatment will be given careful consideration for discontinuance of methadone, especially after reaching a 10–20 milligram dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug-free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of

his required visits adjusted at the discretion of the director.

X. To prevent diversion into illicit channels, adequate security shall be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Bureau of Narcotics and Dangerous Drugs.

XI. Accurate records traceable to patients shall be maintained showing dates, quantity, and batch or code marks of the drug used. These records shall be retained for a period of 3 years.

XII. The program director may establish geographically dispersed medication units of reasonable size for administering and dispensing medication to patients stabilized at their optimal dosage level. The approval of such units for any geographic area shall be based upon the number and distribution of such units within the area. No more than 30 patients shall be under care at a medication unit at any one time. These units shall be responsible only for administering and dispensing medication. Private practitioners and community pharmacies may serve as medication units. Only after patients have been stabilized at their optimal initial dosage level may they be referred to a medication unit. Subsequent to such referral, the program director shall retain continuing responsibility for the patient's care and the patient shall be seen at the primary program facility at least monthly for medical evaluation and ancillary service. If a private practitioner wishes to provide other service in addition to administering and dispensing medication and collecting urine samples, the practitioner is considered a program component or a separate program, depending upon the type of services provided. In such case the restrictions on the number of patients served shall be determined by the staffing pattern and resources available.

XIII. All representations in this application are currently accurate, and no changes shall be made in the program until they have been approved by the Food and Drug Administration and the State authority.

XIV. If the program or any individual under the program is disapproved, the program director shall recall the methadone from the disapproved sources and return the drug to the manufacturer in a manner prescribed by the Bureau of Narcotics and Dangerous Drugs.

XV. Inspections of this program may be undertaken by the State authority, by the Food and Drug Administration and by the Bureau of Narcotics and Dangerous Drugs in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provisions of 21 CFR Part 401 shall be followed.

Signature ----------
(Program sponsor)

(2) *Medical Responsibility Statement.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD 2633 Medical Responsibility Statement for Use of Methadone in a Treatment Program

(To be completed by each physician licensed to dispense or administer methadone under an approved program.)

Date ----------
Name of program----------
Address ----------
Telephone number----------

Medical Director for this facility (licensed by law to administer or dispense drugs and responsible for all medication administered or dispensed at this facility).

Address of this facility----------
Telephone number of this facility----------

I. The undersigned agrees to assume responsibility for the administration and dispensing of methadone under the above identified program and to abide by the required standards for methadone detoxification and maintenance treatment.

II. The name of each patient treated at a facility and the frequency of visits shall be registered with the medical director. An annual report Form FD 2634 "Annual Report for Treatment Program Using Methadone" shall be submitted to the program sponsor for submission to the Food and Drug Administration. The patient shall always report to the same facility unless prior approval is obtained from the medical director for treatment at another operation.

III. The following minimal treatment standards shall be followed.

A. A statement shall be given to the addicts to inform them about the program. A voluntary request and consent Form FD 2635 "Consent to Methadone Treatment" shall be signed by each patient. Participation in the program shall be voluntary.

B. The mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.

C. An exception to the requirement for evidence of current physiologic dependence on narcotic drugs will be allowed under exceptional circumstances. For example, methadone treatment may be initiated prior to or within 1 week of release from a stay of 1 month or longer in in a penal or chronic care institution if an individual has a pre-detention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institute. Justification for any such exception should be noted on the patient's record.

D. Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on December 15, 1972 may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment after such date unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs consent form, Form FD 2635, "Consent to Methadone Treatment". Methadone treatment of new patients between ages 16 and 18 years of age will be permitted after such date only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after such date, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

IV. An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, and a physical examination, and any laboratory or other special examinations as indicated in the judgment of the attending physician. (It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.)

A. A personal history record will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types, and prior treatment for drug abuse.

B. Medical history. A thorough medical history record will be completed for each patient accepted for admission.

C. Physical examination. The findings of a comprehensive physical examination will be recorded.

V. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system that exists and I state my intention to participate in any system that may be developed and approved by the Food and Drug Administration unless I notify the Food and Drug Administration, in writing, to the contrary. I understand failure to participate may cause revocation of approval of my application. Except in an emergency situation, methadone will not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone. Except as provided in item XI of this form, information that could identify the patient will be kept confidential in compliance with 21 CFR Part 401.

VI. The following minimal procedures will be used for ongoing care.

A. Dosage and administration for detoxification and maintenance treatment:

1. Methadone will be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, syrup concentrate, or other formulations are permitted to be distributed to the program, all

oral medication shall be administered or dispensed in a liquid formulation. The dosage shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion, and packaged for outpatient use in special packaging as required by 21 CFR 295.2. Any take-out medication shall be labeled with the treatment center's name, address and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but may be varied depending upon clinical judgment. Initially, a single oral dose of 15-20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. 40 milligrams per day in single or divided doses will ususally constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2 day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxification. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10 milligram doses may be repeated as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on December 15, 1972 who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams or, beginning June 13, 1973, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the Food and Drug Administration and the State authority. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

4. Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

5. Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may only be a pharmacist, registered nurse, or licensed practical nurse depending upon the State regulations regarding narcotic drug dispensing and administering administration. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule shall be recorded and signed by the licensed practitioner.

6. For detoxification, the drug shall be administered daily under close observation. In maintenance treatment the patient initially will ingest the drug under the observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3-day take-home supply. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under supervision may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In such circumstances the reasons for providing additional medication will be recorded in the clinical record. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g., a licensed practitioner) may deliver or obtain the medication.

B. In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines, and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated. Laboratories used for testing must participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes made in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

C. An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD-1639, "Drug Experience Report," any significant physical or psychologic disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record.

D. All patients in maintenance treatment will be given careful consideration for discontinuance of methadone especially after reaching a 10 to 20 milligrams dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug-free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director.

VII. To prevent diversion into illicit channels, adequate security shall be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Bureau of Narcotics and Dangerous Drugs.

VIII. The program director may establish geographically dispersed medication units of reasonable size for administering and dispensing medication to patients stabilized at their optimal dosage level. The approval of such units for any geographic area shall be based upon the number and distribution of such units within the area. No more than 30 patients shall be under care at a medication unit at any one time. These units shall be responsible only for administering and dispensing medication. Private practitioners and community pharmacies may serve as medication units. Only after patients have been stabilized at their optimal initial dosage level may they be referred to a medication unit. Subsequent to such referral, the pro-

gram director shall retain continuing responsibility for the patient's care and the patient shall be seen at the primary program facility at least monthly for medical evaluation and ancillary service. If a private practitioner wishes to provide other service in addition to administering and dispensing medication and collecting urine samples, the practitioner is considered a program component or a separate program, depending upon the type of services provided. In such case the restrictions on the number of patients served shall be determined by the staffing pattern and resources available.

IX. All representations in this application are currently accurate, and no changes shall be made in the program until they have been approved by the Food and Drug Administration and the State authority.

X. If the program or any individual under the program is disapproved, the program director shall recall the methadone from the disapproved sources and return the drug to the manufacturer in a manner prescribed by the Bureau of Narcotics and Dangerous Drugs.

XI. Inspections of this program may be undertaken by the State authority, by the Food and Drug Administration and by the Bureau of Narcotics and Dangerous Drugs in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provisions of 21 CFR Part 401 shall be followed.

Signature: _____

(3) *Annual Report Form.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD 2634 Annual Report for Treatment Program Using Methadone

This form shall be completed in triplicate by the program sponsor for each calendar year.

One copy is to be sent to the Food and Drug Administration and one copy to the State authority on or before January 30.

I. Name or other identification of program

_____

_____

Address _____

_____

II. Total Treatment Capacity _____

III. Amount of methadone dispensed (in grams) during the year: _____

IV. Number of individuals who applied to the program but were not admitted or given admission evaluation _____

V. Number of individuals who were provided only detoxification one or more times _____

VI. Census of patients provided methadone maintenance treatment _____

A. Number under care at the beginning of the year being reported _____

B. Of those in treatment at the beginning of the year:

1. Number continuously under care through the year being reported (still under care) _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged or transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

C. Number admitted to care during year ____ not previously treated in this program:

1. Number still under care at the end of the year _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged or transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

D. Number admitted to care during the year ____, previously treated in this program prior to the past year:

1. Number still under care at the end of the year _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged and transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

VII. Demographic and treatment characteristics of patients under care at the end of the year being reported:

A. By age and sex:

Age	Total	Male	Female
Under 14			
14-15			
16-17			
18-20			
21-25			
26-35			
36-45			
46+			

B. For the year being reported, give the number of patients who have been under continuous care for the following periods of time:

Under 3 months _____
3 months to 1 year _____
1 to 2 years _____
2 to 5 years _____
Over 5 years _____

C. Total number of individuals treated to date _____

D. For the year being reported, give the number of patients stabilized at each dosage level:

Daily dosage, mgm.	*Number of patients*
Under 20	
20-39	
40-59	
60-79	
80-99	
100-119	
Over 120	

E. For the year being reported, give the number of patients seen in the past 8 weeks who have fallen in the following categories:

No positive urinalysis for morphine for 2 months or more _____

Occasional positive urinalysis for morphine (monthly or less) _____

Frequent positive urinalysis for morphine (more than once per month) _____

In program for less than 2 months _____

For the year being reported, give the number of patients treated who were pregnant _____

VIII. Give the number of patients having significant adverse reactions, particularly reactions related to hematopoietic, cardiovascular, endocrine, neurologic, and immunological functions (attach a completed copy of Form FD-1639, "Drug Experience Report," for each incident not previously reported to the Food and Drug Administration):

Type of reaction	*Number of patients*
_____	_____
_____	_____
_____	_____
_____	_____

IX. Give the number of patients who have died while under methadone care (attach a completed copy of Form FD-1639, "Drug Experience Report", for each incident not previously reported to the Food and Drug Administration):

	Number of patients
A. Definitely methadone-related	_____
B. Not methadone-related	_____

Signature _____

(Program sponsor)

(4) *Patient Consent Form.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD 2635 Consent for Methadone Treatment

Patient _____ Date _____

Name of practitioner explaining procedures _____

(Provisions of this consent form may be modified to conform to any applicable State law.)

I hereby authorize and give my voluntary consent to Dr. _____

(Program medical director)

and/or any appropriately authorized assistants he may select, to administer or prescribe the drug methadone as an element in the treatment for my dependence on heroin or other narcotic drugs.

The procedures necessary to treat my condition have been explained to me and I understand that it will involve my receiving daily dosages of methadone, or other drugs which will help control my dependence on heroin or other narcotic drugs.

It has been explained to me that methadone is a narcotic drug which can be harmful if taken without medical supervision. I further understand that methadone is an addictive medication and may, like other drugs used in medical practice, produce adverse results. The alternative methods of treatment, the possible risks involved, and the possibilities of complications have been explained to me, but I still desire to receive methadone due to the risk of my return to the use of heroin or other drugs.

The goal of methadone treatment is total rehabilitation of the patient. Eventual withdrawal from the use of all drugs, including methadone, is an appropriate treatment goal. I realize that for some patients methadone treatment may continue for relatively long periods of time but that periodic consideration shall be given concerning my complete withdrawal from methadone use.

I understand that I may withdraw from this treatment program and discontinue the use of the drug at any time and I shall be afforded detoxification under medical supervision.

I agree that I shall inform any doctor who may treat me for any medical problem that I am enrolled in a methadone treatment program, since the use of other drugs in conjunction with methadone may cause me harm.

I also understand that during the course of treatment, certain conditions may make it necessary to use additional or different procedures than those explained to me. I understand that these alternate procedures shall be used when in the Program or Medical Director's professional judgment it is considered advisable.

_____

(For female patients of child-bearing age)

To the best of my knowledge, I (am am not) pregnant at this time.

Besides the possible risks involved with the long-term use of methadone, I further understand that, like heroin and other narcotic drugs, information on its effects on

pregnant women and on their unborn children is at present inadequate to guarantee that it may not produce significant or serious side effects.

I, has been explained to me and I understand that methadone is transmitted to the unborn child and will cause physical dependence. Thus, if I am pregnant and suddenly stop taking methadone, I or the unborn child may show signs of withdrawal which may adversely affect my pregnancy or the child. I shall use no other drugs without the medical director or his assistants' approval, since these drugs, particularly as they might interact with methadone, may harm me or my unborn child. I shall inform any other doctor who sees me during my present or any future pregnancy or who sees the child after birth, of my current or past participation in a methadone treatment program in order that he may properly care for my child and me.

It has been explained to me that after the birth of my child I should not nurse the baby because methadone is transmitted through the milk to the baby and this may cause physical dependence on methadone in the child. I understand that for a brief period following birth, the child may show temporary irritability or other ill effects due to my use of methadone. It is essential for the child's physician to know of my participation in a methadone treatment program so that he may provide appropriate medical treatment for the child.

All the above possible effects of methadone have been fully explained to me and I understand that at present, there have not been enough studies conducted on the long term use of the drug to assure complete safety to my child. With full knowledge of this, I consent to its use and promise to inform the Medical Director or one of his assistants immediately if I become pregnant in the future.

(For patients under 18 years of age)

The patient is a minor, _____ years of age, born, _____

The risks of the use of methadone have been explained to (me/us) and (I/we) understand that methadone is a drug on which long-term studies are still being conducted and that information on its effects in adolescents is incomplete. It has been explained to (me/us) that methadone is being used in the minor's treatment only because the risk of (his/her) return to the use of heroin is sufficiently great to justify this treatment. (I/We) declare that participation in the methadone treatment program is wholly voluntary on the part of both the (parent(s)/guardian(s)) and the patient and that methadone treatment may be stopped at any time on (my/our) request or that of the patient. With full knowledge of the potential benefits and possible risks involved with the use of methadone in the treatment of an adolescent, (I/we) consent to its use upon the minor, since (I/we) realize that otherwise (he/she) shall continue to be dependent upon heroin or other narcotic drugs.

I certify that no guarantee or assurance has been made as to the results that may be obtained from methadone treatment. With full knowledge of the potential benefits and possible risks involved, I consent to methadone treatment, since I realize that I would otherwise continue to be dependent on heroin or other narcotic drugs.

Patient _____
Date _____
Date of birth _____
Parent(s) or guardian(s) _____
Relationship _____
Witness _____

(5) *Hospital Application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD 2636 Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification and Temporary Maintenance Treatment

Name of hospital _____
Address _____
Commissioner,
Food and Drug Administration,
Bureau of Drugs (BD-106),
Rockville, Md. 20852

DEAR SIR: As hospital administrator, I submit this request for approval to receive supplies of methadone to be used for analgesia in severe pain and for detoxification and and maintenance treatment in accord with § 130.44 of the new drug regulations. I understand that the failure to abide by the requirements described below may result in revocation of approval to receive shipments of methadone, seizure of the drug supply on hand, injunction, and criminal prosecution.

I. The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone is _____.

II. There are a total of _____ beds in the hospital.

III. A general description of the hospital and nature of patient care undertaken is attached.

IV. The anticipated quantity of methadone needed per year is _____ (Gms.).

V. Methadone is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients, and for analgesia in severe pain for hospitalized patients and outpatients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay whose enrollment in a program which has approval for maintenance treatment using methadone has been verified.

VI. Prior to filing a physician's prescription for methadone for outpatients, I shall obtain from the physician a statement indicating that all such prescriptions written by him shall be limited to use for analgesia in severe pain and his agreement to maintain records to substantiate such use. These records will be available in the hospital or made available at the request of the hospital administrator. On January 30 of each year, the hospital shall report to the Food and Drug Administration the names and addresses of all physicians who prescribed methadone for analgesia on an outpatient basis during the previous year.

VII. Prescriptions for analgesia may be filled only if they are written by a physician who has submitted the required statement to the hospital.

VIII. Accurate records shall be maintained showing dates, quantity, and batch or code marks of the drug for inpatient and outpatient treatment. The records shall be retained for a period of 3 years.

IX. The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to the drug when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary [illegible] the hospital or any portion thereof. The confidentiality requirements of 21 CFR Part 130 shall be followed.

Signature: _____
(Hospital official)

2. A new paragraph (b) is added to § 130.48 as follows:

§ 130.48 **Drugs that are subjects of approved new-drug applications and that require special studies, records, and reports.**

* * * * *

(b) *Methadone.* Methadone may be used as an analgesic in severe pain, for the detoxification of narcotic addicts, and as an oral substitute for heroin or other morphine-like drugs, in the maintenance treatment of narcotic addicts, pursuant to the conditions established in § 130.44. Further data and information are required to establish the safety and effectiveness of methadone under a variety of conditions during widespread and long-term use. In view of the tremendous public health and social problems associated with the use of heroin, the demonstrated usefulness of methadone in treatment, the lack of a safe and effective alternative drug or treatment modality, the need for additional safety and effectiveness data on methadone, and the danger to health that could be created by uncontrolled distribution and use of methadone, the Commissioner of Food and Drugs finds that it is not in the public interest either to withhold the drug from the market until it has been proved safe and effective under all conditions of use or to grant full approval for unrestricted distribution, prescription, dispensing, or administration of methadone. The Commissioner therefore concludes that it is essential to the public interest to prescribe detailed conditions for safe and effective use of methadone, utilizing the IND and NDA control mechanisms and the authority granted under the Comprehensive Drug Abuse Prevention and Control Act of 1970, to assure that the required additional information for assessing the safety and effectiveness of methadone is obtained, to maintain close control over the safe distribution, administration, and dispensing of the drug, and to detail responsibilities for such control. The conditions established in § 130.44 constitute a determination of the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts with respect to the use of methadone, pursuant to section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

(1) *Effective date.* Paragraphs (d)(3)(ii), (d)(3)(iv), (g)(1), (2), and (g)(3) of § 130.44, become effective December 15, 1972. The remainder of § 130.44 and § 130.48 become effective March 15, 1973.

Dated: December 7, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-21306 Filed 12-14-72;8:45 am]

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-575]

METHADONE

Proposed Withdrawal of New Drug Applications; Notice of Opportunity for Hearing

In the FEDERAL REGISTER of January 7, 1972 (37 F.R. 201), the Commissioner of Food and Drugs added a new § 130.48 *Drugs that are subjects of approved new-drug applications and that require special studies, records, and reports* to the new drug regulations. In the FEDERAL REGISTER of April 6, 1972 (37 F.R. 6940), the Commissioner proposed special requirements for use of methadone. A final order regarding this proposal is published elsewhere in this issue of the FEDERAL REGISTER.

For reasons stated in the April 6, 1972 proposal, and the final order, the Commissioner concludes that there is a lack of substantial evidence that methadone is safe and effective for detoxification, analgesia, or antitussive use under the conditions of use that presently exist. Therefore, notice is given to the holders of the new drug applications for methadone that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new drug applications and all amendments and supplements thereto:

1. Methadone (Dolophine) HCl Tablets, Injectable, Suppository; by Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206. (NDA 6134).

2. Methadone HCl Tablets, Injectable; by Hoffmann-LaRoche Inc., Nutley, N.J. 07110. (NDA 6305).

3. Methadone HCl Injectable, Tablets, Elixir; by Parke, Davis & Co., Joseph Campau Avenue, At the River, Detroit, Mich. 48232. (NDA 6310).

4. Methadone HCl Tablets, Injectable; by The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002. (NDA 6311).

5. Methadone HCl Ampuls; by S. E. Massengill Co., 527 Fifth Street, Bristol, Tenn. 37620. (NDA 6345).

6. Methadone HCl Tablets, Injectable; by Wm S. Merrell Co., Division Richardson-Merrell Inc., 110 East Amity Road, Cincinnati, Ohio 45215. (NDA 6370).

7. Methadone HCl Tablets; by Mallinckrodt Chemical Works, 3600 North Second Street, Box 5439, St. Louis, Mo. 63160. (NDA 6383).

8. Methadone (Amidone) HCl Tablets, Elixir, Injectable; by S. F. Durst & Co., Inc., 5317 North Third Street, Philadelphia, Pa. 19120. (NDA 6504).

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicants an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicants are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail themselves of the opportunity for a hearing. Failure of an applicant to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no applicant elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the applications.

If an applicant elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug applications should not be withdrawn, together with a well-organized and full factual analysis of the data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant warrants the conclusion that there exists substantial evidence demonstrating the safety and effectiveness of the product under existing conditions of use, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the applications and data submitted by the applicants in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the applications, the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicants, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

New drug application holders may submit, within 30 days after the date of publication of this notice in the FEDERAL REGISTER, a supplemental new drug application requesting approval for the manufacture and distribution of methadone pursuant to §§ 130.44 and 130.48(b). Upon submission and approval of any such supplement the Commissioner will rescind this notice of opportunity for hearing for that applicant.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat 1052-1053, as amended; 21 U.S.C. 355) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 7, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 72-21305 Filed 12-14-72;8:45 am]

Federal Regulations Regarding the Confidentiality of Methadone Maintenance Treatment Program Records
[40 Fed. Reg. 27802 (1975)]

federal register

TUESDAY, JULY 1, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 127

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

General Provisions

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS

PART 2—CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

On May 9, 1975, the Department of Health, Education, and Welfare and the Special Action Office for Drug Abuse Prevention published in the FEDERAL REGISTER (40 FR 20522) a notice of proposed joint rulemaking setting forth a proposed new Part 2 of Title 42 of the Code of Federal Regulations governing the confidentiality of alcohol and drug abuse patient records.

Interested persons were invited to submit written comments, views, or arguments with respect to the proposed regulations within 30 days of the date of publication of that notice. All comments so submitted were carefully considered, and at various stages in the rulemaking process, the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected by the proposed regulations were consulted.

As finally adopted and set forth hereinafter, the regulations contain two major substantive changes from the May 9 proposal. The separate treatment of funding sources and third-party payers (§§ 2.21 and 2.37 of the proposed regulations) was abandoned as unworkable, primarily because the prohibitions which the proposed regulations would have placed on funding sources would have directly conflicted with requirements which have been proposed in implementation of Title XX of the Social Security Act (see proposed 45 CFR 228.63, 40 FR 16802, 16809, April 14, 1975). In lieu of this approach, § 2.37 has been revised to provide that funding sources and third-party payers maintaining drug or alcohol abuse patient records are subject to restrictions upon disclosure to the same extent and in the same manner as any other entity maintaining records which are within the scope of the authorizing legislation and this Part.

The other major change is in the area of criminal justice system referral and the grounds for the rules finally adopted are set forth in the basis and purpose section (§ 2.39–1) pertaining thereto. In connection with that change, it must be frankly acknowledged that the arguments set forth in the corresponding basis and purpose section (§ 2.40–1) of the May 9 proposal have merit. The final rule may in certain instances result in a compromise of the treatment process, if judges or other authorities in the criminal justice system overreact to information whose communication is allowed under the final rules but would have been prohibited under the proposed rules.

Against such an adverse effect, however, there must be weighed the very real advantage which genuine cooperation between community social service systems and the criminal justice system can yield for those whose lives are crippled and scarred by the consequences of their own criminal conduct. Governmental responses based on a pure medical model have not met with noticeably greater success than those based on a purely punitive approach, and it would be tragic if these rules were so constructed as to become a barrier to the development of better ways to deal with those who are caught up in a pattern of seriously antisocial behavior.

In addition to the foregoing major changes, the following minor policy changes were made.

Provisions relating to destruction or other disposition of records were dropped from § 2.21 (§ 2.22 in the May 9 proposal) as unnecessary except in the case of programs discontinuing operations.

The fixed limitation on the permissible duration of written consent for disclosure was dropped from § 2.31 in favor of a limitation to such duration as may be reasonably necessary to effectuate the purpose for which the consent is given.

The specification of crimes in § 2.65 for which a court order may be granted authorizing use of program records in the investigation or prosecution of a patient was broadened to cover any "extremely serious" crime, with those listed in the May 9 notice being retained as examples.

Finally, a number of clarifying, technical, and conforming changes were made in the May 9 proposal, but these are without significant substantive effect.

Accordingly, pursuant to the authority of section 408 of the Drug Abuse Office and Treatment Act of 1972, as amended by Pub. L. 92–282 (21 U.S.C. 1175), and section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Pub. L. 93–282 (42 U.S.C. 4582), and under the authority delegated to the General Counsel of the Special Action Office for Drug Abuse Prevention (39 FR 17901, May 21, 1974), Subchapter A of Chapter I, Title 42, Code of Federal Regulations, is amended by inserting immediately after Part 1 thereof a new Part 2 to read as set forth below.

Effective date. These regulations shall be effective on August 1, 1975.

Dated: June 25, 1975.

R. MOURE,
Acting Assistant Secretary for Health, Department of Health, Education, and Welfare.

Approved: June 26, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Dated: June 27, 1975.

GRASTY CREWS II,
General Counsel, Special Action Office for Drug Abuse Prevention.

Dated: June 27, 1975.

ROBERT L. DUPONT,
Director, Special Action Office for Drug Abuse Prevention.

Subpart A—Introductory Statement

Sec.
2.1 Statutory authority—drug abuse.
2.2 Statutory authority—alcohol abuse.
2.3 Previous regulations as controlling authority.
2.4 General purposes.
2.5 Format.
2.6 Administration and enforcement in general.
2.7 Reports of violations.

Subpart B—General Provisions

Sec.
2.11 Definitions and usages—rules.
2.11–1 Definitions and usages—basis and purpose.
2.12 Applicability—rules.
2.12–1 Applicability—basis and purpose.
2.13 General rules regarding confidentiality—rules.
2.13–1 General rules regarding confidentiality—basis and purpose.
2.14 Penalty for violations—rules.
2.14–1 Penalty for violations—basis and purpose.
2.15 Minor patients—rules
2.15–1 Minor patients—basis and purpose.
2.16 Incompetent and deceased patients—rules.
2.16–1 Incompetent and deceased patients—basis and purpose.
2.17 Security precautions—rules.
2.17–1 Security precautions—basis and purpose.
2.18 Extent of disclosure—rules.
2.18–1 Extent of disclosure—basis and purpose.
2.19 Undercover agents and informants—rules.
2.19–1 Undercover agents and informants—basis and purpose.
2.20 Identification cards—rules.
2.20–1 Identification cards—basis and purpose.
2.21 Disposition of discontinued program records—rules.
2.21–1 Disposition of discontinued program records—basis and purpose.
2.22 Former employees and others—rules.
2.22–1 Former employees and others—basis and purpose.
2.23 Relationship to State laws—rules.
2.23–1 Relationship to State laws—basis and purpose.
2.24 Relationship to section 303(a) of Public Health Service Act and section 502(c) of Controlled Substances Act—rules.
2.24–1 Relationship to section 303(a) of Public Health Service Act and section 502(c) of Controlled Substances Act—basis and purpose.

Subpart C—Disclosures With Patient's Consent

2.31 Written consent required—rules.
2.31–1 Written consent required—basis and purpose.
2.32 Prohibition on redisclosure—rules.
2.32–1 Prohibition on redisclosure—basis and purpose.
2.33 Diagnosis, treatment, and rehabilitation—rules.
2.33–1 Diagnosis, treatment, and rehabilitation—basis and purpose.
2.34 Prevention of certain multiple enrollments—rules.
2.34–1 Prevention of certain multiple enrollments—basis and purpose.
2.35 Legal counsel for patient—rules.
2.35–1 Legal counsel for patient—basis and purpose.
2.36 Patient's family and others—rules.
2.36–1 Patient's family and others—basis and purpose.
2.37 Third party payers and funding sources—rules.
2.37–1 Third party payers and funding sources—basis and purpose.

Sec.
2.38 Employers and employment agencies—rules.
2.38–1 Employers and employment agencies—basis and purpose.
2.39 Criminal justice system referrals and functions—rules.
2.39–1 Criminal justice system referrals and functions—basis and purpose.
2.40 Situations not otherwise provided for—rules.
2.40–1 Situations not otherwise provided for—basis and purpose.

Subpart D—Disclosures Without Patient Consent

2.51 Medical emergencies—rules.
2.51–1 Medical emergencies—basis and purpose.
2.52 Research, audit, and evaluation—rules.
2.52–1 Research, audit, and evaluation—basis and purpose.
2.53 Government agencies—rules.
2.53–1 Governmental agencies—basis and purpose.
2.54 Patient identifying information in connection with examinations—rules.
2.54–1 Patient identifying information in connection with examinations—basis and purpose.
2.55 Supervision and regulation of narcotic maintenance and detoxification programs—rules.
2.55–1 Supervision and regulation of narcotic maintenance and detoxification programs—basis and purpose.
2.56 Prohibition on disclosure of patient identities from research, audit, or evaluation records—rules.
2.56–1 Prohibition on disclosure of patient identites from research, audit, or evaluation records—basis and purpose.

Subpart E—Court Orders

2.61 Legal effect of order—rules.
2.61–1 Legal effect of order—basis and purpose.
2.62 Inapplicability to secondary records—rules.
2.62–1 Inapplicability to secondary records—basis and purpose.
2.63 Limitation to objective data—rules.
2.63–1 Limitation to objective data—basis and purpose.
2.64 Procedures and criteria in general—rules.
2.64–1 Procedures and criteria in general—basis and purpose.
2.65 Investigation and prosecution of patients—rules.
2.65–1 Investigation and prosecution of patients—basis and purpose.
2.66 Investigation and prosecution of programs—rules.
2.66–1 Investigation and prosecution of programs—basis and purpose.
2.67 Undercover agents and informants—rules.
2.67–1 Undercover agents and informants—basis and purpose.

Subpart A—Introductory Statement

§ 2.1 Statutory authority—drug abuse.

(a) *Statutory provisions effective May 14, 1974.* Insofar as the provisions of this part pertain to any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, such provisions are authorized under section 408 of Pub. L. 92–255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) as amended by section 303 of Pub. L. 93–282 (88 Stat. 137). That section reads as follows:

§ 408. Confidentiality of patient records.

(a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (c), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b)(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) The Director of the Special Action Office for Drug Abuse Prevention, after consultation with the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Director are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) *Amendments effective June 30, 1975.* Effective on the date specified in section 104 of the Drug Abuse Office and Treatment Act of 1972 (June 30, 1975), the first sentence of section 408(g) above, will be amended by striking "Director of the Special Action Office for Drug Abuse Prevention" and inserting in lieu thereof "Secretary of Health, Education, and Welfare", and the second sentence of such section will be amended by striking "Director" and inserting "Secretary" in lieu thereof. Also effective on that date, section 408, above, will be further amended by (1) striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the" in the first sentence of subsection (g) of such section; and (2) adding at the end of such section the following new subsection:

(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations established by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

§ 2.2 Statutory authority—alcohol abuse.

Insofar as the provisions of this part pertain to any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, such provisions are authorized under section 333 of Pub. L. 91–616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4582), as amended by section 122(a) of Pub. L. 93–282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (88 Stat. 131). As so amended, that section reads as follows:

CONFIDENTIALITY OF RECORDS

SEC. 333. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b)(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

§ 2.3 Previous regulations as controlling authority.

Attention is called to the interpretative regulations, issued by the Special Action Office for Drug Abuse Prevention (37 FR 24636, November 17, 1972, as revised 38 FR 33744, December 6, 1973, referred to hereinafter in this part as the "previous regulations"). Those regulations have been given a special status as controlling authority by the provisions of section 303(d) of Pub. L. 93-282, as well as the references in the legislative history of that act to the precedents established under section 408 of Pub. L. 92-255. Such references appear at page 11 of House Committee Report No. 93-759 and at page H3563 of the Congressional Record of May 6, 1974. The latter citation is a detailed analysis of the bill in the form which was submitted for the record by its floor manager, Chairman Staggers of the Interstate and Foreign Commerce Committee, when the bill was up for final action by the House of Representatives.

§ 2.4 General purposes.

(a) *Policy objectives.* The purpose of the regulations set forth in this part is to implement the authorizing legislation in a manner that, to the extent practicable, takes into account two streams of legal thought and social policy. One has to do with enhancing the quality and attractiveness of treatment systems. The other is concerned with the interests of patients as citizens, most particularly in regard to protecting their rights of privacy. Within each stream there are cross-currents, and it should come as no surprise that areas of turbulence are to be found at their confluence.

(b) *Limited purpose.* The regulations contained in this part are not intended to direct the manner in which substantive functions, such as research, treatment, and evaluation, should be carried out, but rather to define the minimum requirements for the protection of confidentiality of patient records which must be satisfied in connection with the conduct of those functions in order to carry out the purposes of the authorizing legislation. This does not mean that observance of only the minimum legal requirements is always the wisest course, but in framing these regulations, allowance has necessarily been made for a diversity of emphasis and approach in the many different jurisdictions and by the great variety of public and private agencies which must find a way to function within the limits here prescribed.

§ 2.5 Format.

(a) *Basis and purpose sections.* Each section setting forth rules on any given topic in Subparts B through E of this part is followed by a section setting forth their basis and purpose. In many cases, the basis and purpose section is itself an interpretative rule regarding the legal authority of the rulemakers. In other instances, it summarizes historical or evidentiary material relevant to the validity and interpretation of the section which precedes it.

(b) *Statutory rules fully incorporated.* Although, for convenience of reference, the statutory basis for this part is set out in full in §§ 2.1 and 2.2, the regulations in Subparts B through E of this part are intended to include all of the operative statutory provisions.

§ 2.6 Administration and enforcement in general.

It is not contemplated that any particular agency will be set up specifically to enforce compliance with this part. Programs which receive Federal grants may be monitored for compliance with this and other applicable Federal law as an incident to the grant administration process. Similarly, FDA inspections of methadone programs will include inspection for compliance with this part, which is incorporated by reference in the methadone regulation (21 CFR 310.505).

§ 2.7 Reports of violations.

Any violation may be reported to the United States Attorney for the judicial district in which the violation occurs. Violations on the part of methadone programs may be reported to the regional offices of the Food and Drug Administration. Violations on the part of a Federal grantee or contractor may be reported to the Federal agency monitoring the grant or contract.

Subpart B—General Provisions

§ 2.11 Definitions and usages.—Rules.

(a) *Authorizing legislation.* The term "authorizing legislation" means section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) and section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4582), as such sections may be amended and in effect from time to time.

(b) *Construction of terms.* The definitions and rules of construction set forth in this section are applicable for the purposes of this part. To the extent that they refer to terms used in the authorizing legislation, they are also applicable for the purposes of such legislation.

(c) *Alcohol abuse.* The term "alcohol abuse" includes alcoholism.

(d) *Drug abuse.* The term "drug abuse" includes drug addiction.

(e) *Diagnosis and treatment.* The terms "diagnosis" and "treatment" include interviewing, counselling, and any other services or activities carried on for the purpose of or as an incident to diagnosis, treatment, or rehabilitation with respect to drug abuse or alcohol abuse, whether or not conducted by a member of the medical profession.

(f) *Program.*

(1) The term "program", when referring to an individual or organization, means either an individual or an organization furnishing diagnosis, treatment, or referral for alcohol abuse or drug abuse.

(2) The term "program", when not used in the sense defined in paragraph (f)(1), means a plan or procedure, whether functional or organizational, and whether or not governmental, for dealing with alcohol abuse or drug abuse problems from either an individual or a social standpoint.

(g) *Program evaluation.*

The term "program evaluation" means an evaluation of—

(1) The effectiveness, efficiency, compliance with applicable therapeutic, legal, or other standards, or other aspects of the performance, of a program as defined in paragraph (f)(1) of this section, or

(2) The validity, effectiveness, efficiency, practicability, or other aspects of the utility or success of a program in the sense defined in paragraph (f)(2) of this section.

(h) *Program director.* The term "program director" in the case of a program which is an individual means that individual, and in the case of a program which is an organization, the individual, if any, who is the principal, or, in the case of organizations consisting of partners or under the control of a board of directors, board of trustees or other governing body, the individual designated as program director, managing director, or otherwise vested with executive authority with respect to the organization.

(i) *Patient.* The term "patient" means any individual (whether referred to as a patient, client, or otherwise) who has applied for or been given diagnosis or treatment for drug abuse or alcohol abuse and includes any individual who, after arrest on a criminal charge, is interviewed and/or tested in connection with drug or alcohol abuse preliminary to a determination as to eligibility to participate in a treatment or rehabilitation program.

(j) *Patient identifying information.* The term "patient identifying information" means the name, address, social security number, or similar information by which the identity of a patient can be determined with reasonable accuracy and speed either directly or by reference to other publicly available information. The term does not include a patient identifying number assigned by a program.

(k) *Alcohol abuse or drug abuse prevention function.* The term "alcohol abuse or drug abuse prevention function" means any program or activity relating to alcohol abuse or drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of law enforcement or is unrelated to alcohol or drugs.

(l) The term "person" means an individual, a partnership, a corporation, a trust, a Federal or State governmental agency, or any other legally cognizable entity.

(m) *Service organization.* The term "service organization" means a person which provides services to a program such as data processing, dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services.

(n) *Qualified service organization.* The term "qualified service organization" means a service organization which has entered into a written agreement with a program pursuant to which the service organization—

(1) acknowledges that in receiving, storing, processing, or otherwise dealing with any information from the program about patients in the program, it is fully bound by the provisions of this part;

(2) undertakes to institute appropriate procedures for safeguarding such information, with particular reference to patient identifying information; and

(3) undertakes to resist in judicial proceedings any efforts to obtain access to information pertaining to patients otherwise than as expressly provided for in this part.

(o) *Records.* The term "records" includes any information, whether recorded or not, relating to a patient, received or acquired in connection with the performance of any alcohol abuse or drug abuse prevention function, whether such receipt or acquisition is by a program, a qualified service organization, or any other person.

(p) *Communications not constituting disclosure.* The following types of communications do not constitute disclosures of records:

(1) Communications of information within a program between or among personnel having a need for such information in connection with their duties.

(2) Communications between a program and a qualified service organization of information needed by the organization to perform its services to the program.

(3) Communications of information which includes neither patient identifying information nor identifying numbers assigned by the program to patients.

(q) *Previous regulations.* The term "previous regulations" refers to the interpretative regulations issued by the Special Action Office for Drug Abuse Prevention, originally published November 17, 1972, 37 FR 24636, as revised December 6, 1973, 38 FR 33744.

(r) *State law.* The term "State law" refers to the law of a State or other jurisdiction, such as the District of Columbia, as distinguished from Federal law in general. As applied to transactions which do not take place in any State or other similar jurisdiction, the term refers to Federal common law as modified by any applicable Federal statutes and regulations.

(s) *Third party payer.* The term "third party payer" means any organization (or person acting as agent or trustee for an organization or fund) which pays or agrees to pay for diagnosis or treatment furnished or to be furnished to a particular individual, where such payment or agreement to pay is on the basis of an individual relationship between the payer and the patient (or a member of the patient's family in the case of self-and-family insurance coverage or similar arrangements) evidenced by a contract, an insurance policy, a certificate of membership or participation, or similar documentation.

(t) *Funding source.* The term "funding source" means any individual or any public or private organization, including any Federal, State, or local governmental agency, which makes payments in support of a program. A funding source is not, as such, a third party payer, even where its payment are based directly or indirectly on the program's patient load with or without respect to specified categories of eligible persons.

(u) *August 22, 1974 draft.* References to the "August 22, 1974 draft" are to the draft regulations set out in the Advance Notice of Proposed Joint Rulemaking published in the FEDERAL REGISTER on August 22, 1974, 39 FR 30426, by the Department of Health, Education, and Welfare and the Special Action Office for Drug Abuse Prevention.

§ 2.11–1 Definitions and usages.—Basis and purpose.

(a) *In general.* The definitions are based upon the legislative history of and experience with the authorizing legislation, and are intended as aids to construing the provisions of this part to carry out the purposes of those statutes.

(b) *Coverage of applicants for treatment.* Section 2.11(i) is intended to make it clear that records of the identity and other information about a person whose application is rejected or withdrawn are fully as much covered by this part as records pertaining to a patient actually accepted for treatment.

(c) *Program terminology for patients not controlling.* While many programs prefer to use "client" or some other term instead of "patient" to describe the recipients of their services, it is believed preferable to use terminology in this part which is consistent with that used in the authorizing legislation. It should be clearly understood, however, that the records of any individual who fits the definition set forth in § 2.11(i) are covered, no matter what terminology the program may use to designate his status.

(d) *Origin of "prevention function" terminology.* The definition of alcohol abuse or drug abuse prevention function in § 2.11(k) is adapted from the definition of drug abuse prevention function in section 103(b) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1103(b)). Although there was no corresponding defined term available to the draftsman of the 1974 amendment to section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4582), it is clear from the legislative history that the coverage of alcohol abuse patient records was intended to be fully as wide as the coverage of drug abuse patient records, and the definition in § 2.11(k) reflects that intention.

(e) *Ambiguity of the term "program".* It is recognized that it is ordinarily poor drafting technique to use the same term

in senses which are as different, yet related, as those in §§ 2.11(f)(1) and 2.11(f)(2). This part, however, has to be read both in conjunction with the Food and Drug Administration's Methadone Regulation and the Drug Abuse Office and Treatment Act of 1972. The Methadone Regulation (21 CFR 310.505) clearly uses the term "program" in the § 2.11(f)(1) sense. In section 103(b) of the Act (21 U.S.C. 1103(b)), it is clearly used in the § 2.11(f)(2) sense, and the usage in section 408(b)(2)(B) of the Act has from its original enactment been administratively interpreted to include both senses. As used in this part, the context should indicate the intended meanings with sufficient clarity to make this preferable to creating and defining new terminology which would be different from that used in related regulations and the authorizing legislation.

(f) *Construction of disclosures.* Section 2.11(p) is intended to clarify the status of communications which are carried on within a program or between a program and persons or organizations which are assisting it in providing patient care. The authorizing legislation was not intended to prohibit programs from carrying on accepted practices in terms of obtaining specialized services from outside organizations. In conjunction with the definition of qualified service organizations, set forth in § 2.11(n), the provisions of § 2.11(p) should prevent the development of abuses in this area.

§ 2.12 Applicability.—Rules.

(a) *In general.* Except as provided in paragraph (b) of this section, this part applies to records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any alcohol abuse or drug abuse prevention function—

(1) Which is conducted in whole or in part, whether directly or by grant, contract, or otherwise, by any department or agency of the United States,

(2) For the lawful conduct of which in whole or part any license, registration, application, or other authorization is required to be granted or approved by any department or agency of the United States,

(3) Which is assisted by funds supplied by any department or agency of the United States, whether directly through a grant, contract, or otherwise, or indirectly by funds supplied to a State or local government unit through the medium of contracts, grants of any description, general or special revenue sharing, or otherwise, or

(4) Which is assisted by the Internal Revenue Service of the Department of the Treasury through the allowance of income tax deductions for contributions to the program conducting such function, or by a way of a tax-exempt status for such program.

(b) *Armed Forces and Veterans' Administration.*

(1) The provisions of this part do not apply to any interchange, entirely within the Armed Forces, within those components of the Veterans' Administration furnishing health care to veterans, or between such components and the Armed Forces, of records pertaining to a person relating to a period when such person is or was subject to the Uniform Code of Military Justice.

(2) Except as provided in paragraph (b)(1) of this section, this part applies to any communication between any person outside the Armed Forces and any person within the Armed Forces.

(3) Except as provided in paragraph (b)(1) of this section, this part applies, insofar as it pertains to any drug abuse prevention function, to any communication between any person outside those components of the Veterans' Administration furnishing health care to veterans and any person within such components, until such date as the Secretary of Health, Education and Welfare exercises his authority (conferred by an amendment effective June 30, 1975) to prescribe regulations under section 408 of Pub. L. 92-255 (21 U.S.C. 1175). After such date, this part applies thereto to such extent as the Administrator of Veterans' Affairs, through the Chief Medical Director, by regulation makes the provisions of this part applicable thereto.

(4) Except as provided in paragraph (b)(1) of this section, this part applies, insofar as it pertains to any alcohol abuse prevention function, to any communication between any person outside those components of the Veterans' Administration furnishing health care to veterans and any person within such components, to such extent as the Administrator of Veterans' Affairs, through the Chief Medical Director, by regulation makes the provisions of this part applicable thereto.

(c) *Period covered as affecting applicability.* The provisions of this part apply to records of identity, diagnosis, prognosis, or treatment pertaining to any given individual maintained over any period of time which, irrespective of when it begins, does not end before March 21, 1972, in the case of diagnosis or treatment for drug abuse or before May 14, 1974, in the case of diagnosis or treatment for alcohol abuse.

(d) *Applicability determined by nature and purpose of records.* The applicability of the provisions of this part is determined by the nature and purpose of the records in question, and not by the status or primary functional capacity of the recordkeeper.

§ 2.12-1 Applicability.—Basis and purpose.

(a) The broad coverage provided by § 2.12(a) is appropriate in the light of the remedial purposes of the statutes as well as the practical desirability of certainty and uniformity. Sections 2.12(a)(1) and 2.12(a)(2) simply follow the terms of subsection (a) of the statutes, with some explanatory material for the sake of clarity and explicitness.

(b) Sections 2.12(a)(3) and 2.12(a)(4) are based upon the use by Congress of the phrase "directly or indirectly assisted by any department or agency of the United States". In the light of the multiplicity and extent of Federal programs and policies which can be of assistance to drug and alcoholism programs, this wording strongly suggests an intention to provide the broadest coverage consistent with the literal terms of the statutes. Many programs commence with direct Federal assistance, financial, technical, or both, and later continue with State aid and private, tax-deductible contributions. It would be manifestly contrary to the general policy sought to be effectuated by the legislation if the confidential status of a program's records were to terminate, or even be called into question, by the cessation of direct Federal assistance.

(c) With regard to § 212(a)(3), it seems clear that whenever a State or local government is assisted by the Federal government by way of revenue sharing or other unrestricted grants, all of the programs and activities of the State or local government are thereby indirectly assisted, and thus meet that aspect of the statutory criteria for coverage.

(d) Section 2.12(a)(4) follows the doctrine established in *McGlotten v. Connally*, 338 F. Supp. 448 (D.C. D.C., 1972), in which it was held that the deductible status of contributions to an organization constitutes "Federal financial assistance" within the meaning of section 601 of the 1964 Civil Rights Act (42 U.S.C. 2000d). The inclusion of the adjective "indirect" as a modifier of the term "assistance" as used in the provisions of law authorizing this part suggests an intention to provide coverage at least as broad, if not broader than, section 601 of the Civil Rights Act in respect of financial assistance. See, also, *Green v. Connally*, 330 F. Supp. 1150 (D.C. D.C., 1971) aff'd sub. nom. *Coit v Green*, 404 U.S. 997, 92 S. Ct. 564, 30 L. Ed. 2d 550 (1971)

(e) Section 2.12(b) essentially repeats the interpretation given in § 1401.02(b) of the previous regulation except that it takes account of the special provisions inserted in the new law with reference to the Veterans Administration, and makes clear that the exemption for communications within the military-VA system does not generally apply to records pertaining to civilians.

(f) Section 2.12(c), which deals with the question of how the period covered by any given set of records affects the applicability of these regulations to them, restates the principle set forth in § 1401.02(a) of the previous regulations, and applies it to records in the field of alcohol abuse as well as drug abuse. The authorizing legislation contains no effective date provisions. A construction which would apply the statutes to records of completely closed treatment episodes, records necessarily made and maintained prior to the enactment of the legislation, would create serious administrative problems. It seems doubtful, in any case, whether such records have been "maintained," within the meaning of the statutes, during any period of time after their enactment. On the other hand, if

treatment is actually carried on after the enactment of the applicable statute, then all the records should be covered irrespective of when treatment was begun, because such records clearly are being "maintained" after the enactment of the legislation.

(g) Section 2.12(d) has been included to make explicit one of the legal implications of the authorizing legislation, which is cast in terms descriptive of the records which are to be confidential rather than of the recordkeepers on whom a duty is thus imposed. The result is that, for example, where a State agency maintains an individual client record which contains identifying information about a client (i.e., patient) receiving treatment or rehabilitation services for drug abuse, such a record is clearly a record maintained in connection with a drug abuse prevention function and is subject to the provisions of this part. The fact that the record may also be required by statute or regulations pertaining to eligibility for Federal Financial Participation would in no way exempt the record from the prohibitions and requirements of this part. Thus, it would be unlawful and a violation of these regulations for such a record to be made available to a law enforcement agency, or to determine (without the prior written consent of the client) eligibility for other welfare benefits, or for any other administrative or investigative uses or purposes which would involve or result in an identification of the client to a third party.

§ 2.13 General rules regarding confidentiality.—Rules.

(a) *In general.* Records to which this part applies shall be confidential and may be disclosed only as authorized by this part, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority, whether such proceeding is commenced before or after the effective date of this part.

(b) *Unconditional compliance required.* The prohibition upon unauthorized disclosure applies irrespective of whether the person seeking disclosure already has the information sought, has other means of obtaining it, enjoys official status, has obtained a subpoena, or asserts any other justification or basis for disclosure not expressly authorized under this part.

(c) *Information covered by prohibition.* The prohibition on unauthorized disclosure covers all information about patients, including their attendance or absence, physical whereabouts, or status as patients, whether or not recorded, in the possession of program personnel, except as provided in paragraph (d) of this section.

(d) *Crimes on program premises or against program personnel.* Where a patient commits or threatens to commit a crime on the premises of the program or against personnel of the program, nothing in this part shall be construed as prohibiting personnel of the program from seeking the assistance of, or reporting such crime to, a law enforcement agency, but such report shall not identify the suspect as a patient. In any such situation, immediate consideration should be given to seeking an order under Subpart E of this part to permit the disclosure of such limited information about the patient as may be necessary under the circumstances.

(e) *Implicit and negative disclosures prohibited.* The disclosure that a person (whether actual or fictitious) answering to a particular description, name, or other identification is not or has not been attending a program, whether over a period of time or on a particular occasion, is fully as much subject to the prohibitions and conditions of this part as a disclosure that such a person is or has been attending such a program. Any improper or unauthorized request for any disclosure of records or information subject to this part must be met by a noncommittal response.

(f) *In-patients and residents.* The presence of any in-patient in a medical facility or resident in a residential facility for the treatment of drug or alcohol abuse may be acknowledged to callers and visitors with his written consent. Without such consent, the presence of any in-patient or resident in a facility for the treatment of a variety of conditions may be acknowledged if done in such a way as not to indicate that the patient is being treated for drug or alcohol abuse.

§ 2.13–1 General rules regarding confidentiality.—Basis and purpose.

(a) Section 2.13(a) enunciates the general principle of the statutory provisions, and is unchanged from § 1401.03 of the previous regulations.

(b) Sections 2.13(b) and 2.13(c) have been added on the basis of written comments on the draft regulations published August 22, 1974, [illegible] which there was a documented report that counsel for a program had advised the program that it could furnish information to the FBI about patients without their written consent and without completing a full judicial proceeding in accordance with Subpart E of this part. Sections 2.13(b) and 2.13(c) should clarify the original intent of the statutes and regulations to the extent of precluding such errors in the future.

(c) In the situation described in § 2.13(d), the desirability of the general prophylactic rule prohibiting disclosures by program personnel about patients regardless of whether such disclosures are from a written record must yield to the practical necessity to permit protection from, and prompt reporting of, criminal acts. In the preface to the first set of regulations issued under 21 U.S.C. 1175, it was emphasized that the operation of that section "in no way creates a sanctuary for criminals." (37 FR 24636, November 17, 1972). Section 2.13(d) is consistent with that contemporaneous administrative construction.

(d) Section 2.13(e) is adapted from § 1401.11 of the August 22, 1974 draft. The suggestion that this part be cited when declining to give information has been deleted on the basis of comments that correctly pointed out that such a citation, if given by an institution or program maintaining some records covered by this part and some not, would serve to identify the records inquired about as pertaining to treatment covered by this part.

Section 2.13(f) merely clarifies the effect of the preceding paragraphs in the special situations to which paragraph (f) relates.

§ 2.14 Penalty for violations.—Rules.

(a) *Penalty provided by law.* Any person who violates any provision of the authorizing legislation or any provision of this part shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(b) *Application to subsequent offenses.* Where a defendant has committed one offense under either section authorizing this part or any provision of this part authorized by that section, any offense thereafter committed under the same section or any provision of this part authorized under that section shall be treated as a subsequent offense.

§ 2.14–1 Penalty for violations.—Basis and purpose.

(a) Section 2.14 states the criminal penalty provided for in subsection (f) of the sections authorizing this part. It is included in this part for convenience and completeness. Some of the comments received on this section when originally proposed suggested that criminal penalties for violation should include imprisonment, but such a change would have to be made by legislation rather than rulemaking.

(b) Section 2.14(b) clarifies the intention that the "subsequent offense" need not be identical to the first offense, as long as it is committed with respect to the same statutory section. For example, a person whose first offense had consisted of improperly releasing the name of a patient in an alcoholism treatment program would be punishable for a "subsequent offense" if he later gives out information from the diagnostic work-up of an alcoholism patient.

§ 2.15 Minor patients.—Rules.

(a) *Definition of minor.* The term "minor" means a person who has not attained the age of 18 years or, in a State where a different age is expressly provided by State law as the age at which a person ceases to be a minor, the age prescribed by the law of such State.

(b) *Consent to disclosure in general.* Except as provided in paragraph (c), where consent is required for any disclosure under this part, such consent in the case of a minor must be given by both the minor and his parent, guardian, or other person authorized under State law to act in his behalf, but any disclosure made after the patient has ceased to be a minor may be consented to only by the patient.

(c) *Rule when State law authorizes treatment without parental consent.* Whenever a patient, acting alone, has the

legal capacity under the applicable State law to apply for and obtain such diagnosis, counselling, administration of medication, or other services as actually are or were provided to him by the program with respect to which he is or was a patient, any consent required for disclosure under this part may be given only by the patient, notwithstanding the fact that the patient may be a minor.

(d) *Initial contacts.* When a minor applies for services under circumstances other than those described in paragraph (c) of this section, the fact of such application may not be disclosed, except as an incident to a communication authorized under paragraph (f) of this section, without consent of the applicant, to the applicant's parent, guardian, or other person authorized under State law to act on behalf of the applicant. When such an applicant refuses consent, it must be explained to the applicant that while he or she has the right (subject to the provisions of paragraph (f) of this section) to withhold such consent, the services applied for cannot be provided without it.

(e) *Collection or attempted collection of payment for services.* Where State law authorizes the furnishing of services to a minor without the consent of the minor's parent or guardian, no inquiry may be made of the parent's or guardian's financial responsibility, and no bill, statement, request for payment, or any other communication in respect of such services may be transmitted directly or indirectly to such parent or guardian, without the express written consent of the patient. Such consent may not be made a condition of the furnishing of services except in the case of a program which is not required by law, and does not in fact hold itself out as willing, to furnish services irrespective of ability to pay.

(f) *Applicant lacking capacity for rational choice.* When, in the judgment of a program director a minor applicant for services, because of extreme youth or mental or physical condition, lacks the capacity to make a rational decision on whether to consent to the notification of a parent or guardian, and the situation of the applicant poses a substantial threat to the life or physical well being of the applicant or any other individual, and such threat might be reduced by communicating the relevant facts to a parent or guardian of the applicant, such facts may be so communicated by the program director or by program personnel authorized by the director to do so.

§ 2.15–1 Minor patients.—Basis and purpose.

(a) The statutes authorizing this part are totally silent on the issue of the capacity of a minor to give consent for disclosures, and there is nothing in the legislative history to suggest that the question was ever considered by Congress. The question is, however, one which arises repeatedly, and it is therefore appropriately addressed under the general rulemaking authority conferred by subsection (g) of the authorizing legislation.

(b) Perhaps no legal issues are more highly charged than those affecting the relationship of parent and child. Since Congress has not evidenced an intention to affect this relationship, it is clear that local law should govern, and the task of rulemaking is limited to that of insuring, as far as possible, that the results under Federal law are consistent with local policy.

(c) Where a State has authorized the furnishing of treatment or other services of a given type to a minor without notice to or consent by the parent or guardian, it seems clear that a consistent Federal policy with respect to disclosure requires that consent for any disclosure of the treatment record be given by the minor. This policy, moreover, should not be frustrated by attempts to enforce parental financial responsibility in a situation where the State itself has determined that the minor should have a right to obtain services without involving the parent.

(d) A much more difficult problem is presented in the case of a minor who applies for services in a jurisdiction which has not determined that a minor should have the right to obtain them without parental knowledge or consent. The question may arise as to whether the clinician has an ethical or legal duty to notify the parent which conflicts with a duty of nondisclosure. The rules in § 2.15 are based upon the theory that Federal law should not invalidate a State policy which prohibits treatment without parental consent, but that keeping confidential a mere application for treatment is not ordinarily a sufficient transgression of such a State policy as to require an exception to the general Federal policy prohibiting disclosure of an application for services without the consent of the applicant.

(e) Section 2.15(f) deals with the case of the minor applicant who lacks the capacity to make a rational choice about consenting to disclosure. It is based upon the theory that where a person is actually as well as legally incapable of acting in his own interest, disclosures to a person who is legally responsible for him may be made to the extent that the best interests of the patient clearly so require. Any other rule could subject clinicians to an intolerable choice between violating the provisions of this part on the one hand, or failing to take action to avoid a preventable tragedy involving a minor, on the other. The statutes authorizing this part should not be read as requiring such a choice.

§ 2.16 Incompetent and deceased patients.—Rules.

(a) *Incompetent patients other than minors.* Where consent is required for any disclosure under this part, such consent in the case of a patient who has been adjudicated as lacking the capacity, for any reason other than insufficient age, to manage his or her own affairs may be given by the guardian or other person authorized under State law to act in the patient's behalf.

(b) *Deceased patients.*

(1) *In general.* Except as provided in paragraph (b)(2) of this section, where consent is required for any disclosure of this part, such consent in the case of records of a deceased patient may be given by an executor, administrator, or other personal representative. If there is no appointment of a personal representative, such consent may be given by the patient's spouse, or if none, by any responsible member of the patient's family.

(2) *Vital statistics.* In the case of a deceased patient, disclosures required under Federal or State laws involving the collection of death and other vital statistics may be made without consent.

§ 2.16–1 Incompetent and deceased patients.—Basis and purpose.

Section 2.16 essentially repeats the substance of § 1401.04 of the previous regulations, broadened to reflect the fact that the statutes now allow any consensual disclosures permitted by the regulations, and to cover the situation of deceased patients for whom no formal appointment of an executor, administrator, or other personal representative has been made. Written comments were received to the effect that the power to consent to disclosure in the case of a deceased patient should be limited to a personal representative. The expense of probate or administration in some jurisdictions could cause financial hardship to survivors, and on balance it is believed that where the assets of an estate are insufficient to justify the appointment of a personal representative, the public interest is served by permitting others to consent to disclosure.

§ 2.17 Security precautions.—Rules.

(a) *Precautions required.* Appropriate precautions must be taken for the security of records to which this part applies. Records containing any information pertaining to patients shall be kept in a secure room, or in a locked file cabinet, safe, or other similar container, when not in use.

(b) *Policies and procedures.* Depending upon the type and size of the program, appropriate policies and procedures should be instituted for the further security of records. For example, except where this function is personally performed by the program director, a single member of the program staff should be designated to process inquiries and requests for patient information, and a written procedure should be in effect regulating and controlling access by those members of the staff whose responsibilities require such access, and providing for accountability.

§ 2.17–1 Security precautions.—Basis and purpose.

The enormous variations in both the size and the type of programs to which this part is applicable preclude the formulation of specific requirements with respect to the physical security of records. Almost any requirement which could be laid down would, under some circumstances, either be impracticable or

perverse in its effects. For example, in a facility handling a variety of medical records, all of which are confidential and so marked, a requirement that those pertaining to drug or alcohol treatment be marked in any distinctive way would merely serve to identify such records as pertaining to drug or alcohol treatment—precisely the opposite of the intended result. The purpose of § 2.17, which is based upon § 1401.25 of the previous regulations, is to alert programs to the necessity of exercising due care with respect to the security of patient records.

§ 2.18 Extent of disclosure.—Rule.

Any disclosure made under this part, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure.

§ 2.18–1 Extent of disclosure.—Basis and purpose.

(a) Section 2.18 expresses the general principle, which has application in many different contexts, that any disclosure from records covered by this part should be limited to information necessary in the light of the need or purpose for the disclosure. It is identical to § 1401.06 of the previous regulations.

(b) This section should not be misunderstood as imposing a limitation on the scope of records which may or should be made available to health agencies conducting inspections as described in § 2.55. All of the records maintained by a program may be relevant to such inspection. The Congress has determined that disclosure under such circumstances is not a violation of the statutes authorizing this part; where such disclosure is required by Federal or State law, and the inspecting agency is a qualified State health agency as defined in § 2.55(e)(1), it becomes the responsibility of that agency to protect the confidentiality of information it acquires in the course of its lawful activities.

§ 2.19 Undercover agents and informants.—Rules.

(a) *Definitions.* As used in this section, § 2.19–1, and §§ 2.67 and 2.67–1,—

(1) The term "undercover agent" means a member of any Federal, State, or local law enforcement or investigative agency whose identity as such is concealed from either the patients or personnel of a program in which he enrolls or attempts to enroll.

(2) The term "informant" means a person who, at the request of a Federal, State, or local law enforcement or investigative agency or officer, carries on observation of one or more persons enrolled in or employed by a program in which he is enrolled or employed, for the purpose of reporting to such agency or officer information concerning such persons which he obtains as a result of such observation subsequent to such request.

(b) *General prohibition.* Except as otherwise provided in paragraph (c) of this section, or as specifically authorized by a court order granted under § 2.67,—

(1) No undercover agent or informant may be employed by or enrolled in any alcohol or drug abuse treatment program;

(2) No supervisor or other person having authority over an undercover agent may knowingly permit such agent to be or remain employed by or enrolled in any such program; and

(3) No law enforcement or investigative officer may recruit or retain an informant with respect to such a program.

(c) *Exceptions.* The enrollment of a law enforcement officer in a treatment program shall not be deemed a violation of this section if (1) such enrollment is solely for the purpose of enabling the officer to obtain treatment for his own abuse of alcohol or drugs, and (2) his status as a law enforcement officer is known to the program director.

§ 2.19–1 Undercover agents and informants.—Basis and purpose.

(a) In many instances, persons who are patients in treatment programs are making their first tentative efforts toward re-integration into productive society. They may be both vulnerable and suspicious, and the presence in a treatment program of undercover law enforcement agents or informants can have a devastating effect on the program's morale and therapeutic effectiveness. Moreover, it would appear that the purpose of such agents or informants may be to obtain precisely the type of personal information which might be revealed by inspection of counselor notes and other patient records maintained by the program. Thus, the placing of an undercover agent or informant in a program, either as a patient or as an employee, would appear to be contrary to the purposes for which the provisions of law authorizing this part were enacted, and properly subject to prohibition under regulations expressly authorized to carry out those purposes.

(b) From a policy standpoint, § 2.19 is based on the reasoning that while the use of undercover agents and informants in treatment programs is ordinarily to be avoided, there may occasionally arise circumstances where their use may be justified. Accordingly, where a showing is made in an application for an order under § 2.67 that the criteria set forth in that section are satisfied, the court may grant such an order.

(c) When this section of the regulations was proposed, numerous written comments were received urging that there be an absolute prohibition on the use of undercover agents and informants, and most of the witnesses at the hearings who addressed the issue at all testified to the same effect. A number of comments were received to the effect that § 2.19 should be dropped altogether, but this request was always clearly and often explicitly predicated on the assumption that failure to say anything about undercover agents and informants would make their use illegal. Our view is to the contrary: we think that the statutes, standing alone, do not prohibit the practice, and thus that in the absence of a specific prohibition in these regulations, the use of undercover agents and informants in treatment programs would not be unlawful. Since this is a view which we believe to be shared by the law enforcement and investigative agencies which are affected by § 2.19, there is as a practical matter no alternative to predicating these regulations upon its correctness.

(d) However desirable it may be to limit the use of undercover agents and informants in treatment programs, we think a strong argument can be made against our power to impose an absolute prohibition. To the extent that the practice is susceptible to regulation through the rulemaking process at all, it is on the theory that it opens the way to disclosure of information which is or should be in program records, and thus is contrary to the purposes of the statutes. Since subsection (g) of the statutes confers express rulemaking authority to carry out these purposes, regulation of the use of undercover agents and informants is a proper subject for the exercise of that authority. But even the express statutory prohibition against direct disclosure of the content of patient records is subject to the power of the courts to authorize such disclosure under subsection (b)(2)(C) of the statutes. It seems difficult to argue that Congress intended to confer on rulemaking agencies the authority to impose an absolute prohibition even though its own restrictions (other than those on disclosures of patient identities from secondary records) are subject to being set aside by court order in particular cases. Since we have not attempted to exercise such an authority, it is not necessary to decide at this time whether it was conferred.

(e) A careful reading of the definitions set forth in § 2.19(a) is crucial to an understanding of the prohibitions which are imposed by § 2.19. Objections to the section were made informally but vigorously on behalf of the Drug Enforcement Administration, on the ground that the testimony of informants or undercover agents is frequently if not normally essential to the successful prosecution of cases arising under the Controlled Substances Act. It was said that in the form originally proposed, the section would cut off from treatment those who might agree to cooperate with law enforcement authorities, a result both inhumane and counterproductive. As the definition of an informant is intended to make clear, however, it is his function vis-a-vis personnel and fellow patients in the program in which he is enrolled which is controlling, and not his relationship, *per se*, with an investigative agency.

(f) Finally, the definition of informant is intended to clarify the distinction between an informant and an ordinary witness. It is the element of prearrangement which is crucial. In one of the comments received on §2.19 as proposed, it was urged that treatment programs should be considered as sanctuaries, but such a result was explicitly disclaimed in the

initial publication of the previous regulations (37 FR 24636). In so saying, we are by no means insensitive to the anxieties repeatedly expressed in both testimony and comments on this section, but we believe that the prohibition contained in § 2.19 and the procedures and criteria set forth in § 2.67 provide a measure of relief which is consistent with the structure and intent of the underlying statutes.

§ 2.20 Identification cards.—Rules.

(a) *Required use prohibited.* No program may require or request any patient to carry in his or her possession, while away from the program premises, an identification card or other form of identification which is issued by the program or which would tend to identify the bearer as a participant in it or any similar program.

(b) *Conditions of voluntary use.* Nothing in this section prohibits a program from issuing an identification card to a patient if the patient's counsellor or other authorized member of the program staff has explained to the patient that acceptance and use of the card is entirely voluntary and that neither an initial rejection nor a subsequent discontinuation of its use will in any way prejudice his or her record or standing in the program. In the case of any patient to whom an identification card or similar device was issued prior to the effective date of this section, or subsequent thereto in violation of this section, a counsellor or other authorized member of the program staff shall explain to the patient his right to turn it in without prejudice at any time.

(c) *On-premises exemption.* Nothing in this section prohibits a program from maintaining and using on its premises cards, photographs, tickets, or other devices, or using passwords or other information, to assure positive identification of patients, correct recording of attendance or medication, or for other proper purposes, as long as no pressure is brought on any patient to carry any such device when away from the program premises.

§ 2.20–1 Identification cards.—Basis and purpose.

Section 2.20 is in furtherance of one of the basic purposes of the statutes authorizing this part, namely, protection of patients from improper disclosure of their status as such. Regrettably, there appear to be areas where possession of a treatment program identification card can be prejudicial to a person under arrest or subjected to a search. In any part of the country, the accidental display or circulation of such a card by reason of its loss or theft could have adverse consequences for a variety of reasons. Since programs have other means of achieving the ends which identification cards are meant to serve, patients who do not wish to assume whatever risks may be involved in carrying such cards should not be compelled to do so.

§ 2.21 Disposition of discontinued program records.—Rules.

(a) *General rule.* When a program discontinues operations or is taken over or acquired by another program, its records to which this part applies with respect to any patient may, with the written consent of that patient, be turned over to the acquiring program or, if none, to any other program specified in the patient's consent. Except as otherwise provided in this section, any records to which this part applies, but for the transfer of which patient consent is not obtained, shall be either completely purged of patient identifying information, or destroyed. If any effort to obtain consent for transfer is made, it shall be by means which minimize the likelihood of accidental or incidental disclosure to any third party of the patient's identity as such.

(b) *Retention period.* Where records are required by law to be kept for a specified period, and such period does not expire until after the discontinuation or acquisition of the program, and patient consent for their transfer is not obtained, such records shall be sealed in envelopes or other containers marked or labelled as follows: "Records of [insert name of program] required to be maintained pursuant to [insert citation to law or regulation requiring that records be kept] until a date not later than December 31, [insert appropriate year]." The same procedure may be followed when it is determined to retain records for the period of any applicable statute of limitations.

(c) *Custodial retention.* Records marked and sealed in accordance with paragraph (b) of this section may be held by any lawful custodian, but may be disclosed by such custodian only under such circumstances and to such extent as would be permissible for the program in which they originated. As soon as practicable after the date specified on the label or legend required to be affixed pursuant to paragraph (b) of this section, the custodian shall destroy the records. In the case of any program terminated by reason of bankruptcy, the expense of compliance with this paragraph shall be an expense of administration of the bankrupt estate.

§ 2.21–1 Disposition of discontinued program records.—Basis and purpose.

While arguments can be made for requiring the destruction of records at the conclusion of their useful clinical life, there is wide disagreement on its span, and there are in addition research considerations which argue for an even longer period of retention. Except in the case of discontinued programs, it therefore seems best to leave this issue for determination by the programs concerned.

§ 2.22 Former employees and others.—Rules.

The prohibitions of this part on disclosure of patient records or information contained therein apply to all individuals who are personnel of treatment programs, researchers, auditors, evaluators, service organizations, or others having access to such records or information, and continue to apply to such individuals with respect to such records or information after the termination of their employment or other relationship or activity giving rise to such access.

§ 2.22–1 Former employees and others.—Basis and purpose.

The probition contained in § 2.22 is arguably an interpretation of the authorizing legislation which would be necessary as a matter of law even in the absence of this part; its validity as an exercise of the rulemaking power conferred by subsection (g) of the authorizing legislation seems beyond dispute.

§ 2.23 Relationship to State Laws.—Rules.

The enactment of the provisions of law authorizing this part was not intended to preempt the field of law covered thereby to the exclusion of State laws not in conflict therewith. If a disclosure permitted under the provisions of this part, or under a court order issued pursuant thereto, is prohibited under State law, nothing in this part or in the provisions of law authorizing this part may be construed to authorize any violation of such State law. No State law, however, may either authorize or compel any disclosure prohibited by this part.

§ 2.23–1 Relationship to State Laws.—Basis and purpose.

Section 2.23 sets forth publicly an interpretation which, in informal communications, has consistently been given to 21 U.S.C. 1175 since its original enactment, and clearly has equal applicability to 42 U.S.C. 4582.

§ 2.24 Relationship to section 303(a) of Public Health Service Act and section 502(c) of Controlled Substances Act.—Rules.

(a) *Research privilege description.* In some instances, there may be concurrent coverage of a program or activity by the provisions of this part and by a regulation or other administrative action under section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) or section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)). The latter two provisions of law, referred to hereinafter in this section as the research privilege sections, confer on the Secretary of Health, Education, and Welfare, and on the Attorney General, respectively, the power to authorize researchers to withhold from all persons not connected with the research the names and other identifying information concerning individuals who are the subject of such research. The Secretary of Health, Education, and Welfare may grant this privilege with respect to any "research on mental health, including research on the use and effect of alcohol and other psychoactive drugs." The Attorney General's power is conferred as part of a section authorizing

research related to enforcement of laws under his jurisdiction concerning substances which are or may be subject to control under the Controlled Substances Act, but is not expressly limited to such research. Regardless of whether a grant of research privilege is made by the Secretary or by the Attorney General, it is expressly provided that persons who obtain it "may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify" the subjects of research for which the privilege was obtained.

(b) *Comparison with authority for this part.* Although they deal, in a sense, with the same subject matter, and may on occasion concurrently cover the same transactions, it is important to note the differences between the research privilege sections (21 U.S.C. 872(c) and 42 U.S.C. 242a(a)) and the provisions of law (21 U.S.C. 1175 and 42 U.S.C. 4582) which authorize this part. Briefly, these differences are as follow :

(1) Although they contain broad grants of express rulemaking authority, the provisions of law by which this part is authorized are self-executing in the sense that they are operative irrespective of whether the rulemaking authority is exercised. The protection afforded by the research privilege sections, on the other hand, can only come into existence as a result of affirmative administrative action.

(2) The provisions of law authorizing this part, as well as the provisions of this part itself, impose affirmative duties with respect to the records to which they apply, and the violation of such duties is subject to criminal penalties. To the extent that a privilege is thereby created, it grows out of the duties thus imposed. The research privilege sections, by contrast, impose no duties by their own terms, and if any duties are implied from their existence, they would have to be enforced on the basis of an implicit civil liability for damages or by equitable relief, as there are no criminal or administrative sanctions available.

(3) The exercise of the authority conferred by the research privilege sections is subject to administrative discretion, whereas in the case of the duties imposed under this part there is judicial discretion, within the limits and subject to procedures and criteria prescribed by statute and regulation, to grant relief in particular cases.

(c) *Grant of research privilege not affected by (b)(2)(C) order.* The issuance of an order under subsection (b)(2)(C) of either of the sections authorizing this part (21 U.S.C. 1175 and 42 U.S.C. 4582) in no way affects the continuing effectiveness of any exercise of the authority of the Secretary of Health, Education, and Welfare under 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) or the Attorney General under section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)).

§ 2.24–1 Relationship to section 303(a) of Public Health Service Act and section 502(c) of Controlled Substances Act.—Basis and purpose.

(a) In Pub. L. 93–282, the Congress expressly amended (by sections 122(a) and 303(a), 88 Stat. 131 and 137) the provisions of law which authorize this part, expressly amended (by section 122 (b), 88 Stat. 132) the research privilege section under the Secretary's jurisdiction, and made explicit reference (in section 303(d), 88 Stat. 139) to the regulations previously issued by the Special Action Office for Drug Abuse Prevention reconciling the provisions of section 408 of the Drug Abuse Office and Treatment Act of 1972 with the provisions of the research privilege sections. When the bill which became Pub. L. 93–282 was before the House of Representatives for its last Congressional consideration before transmission to the President, its floor manager, Chairman Staggers of the Committee on Interstate and Foreign Commerce, inserted in the Record a detailed analysis of the bill in its final form (Congressional Record, daily edition, May 6, 1974, page H3563). This analysis contained the following paragraph:

> The relationship of section 303(a) of the Public Health Service Act, authorizing the administrative grant of absolute confidentiality for research, to section 408 of the Drug Abuse Office and Treatment Act of 1972, requiring that Federally-connected drug abuse patient records generally be kept confidential, has been correctly described in an interpretative regulation. 21 C.F.R. 1401.61 and 1401.62, which was upheld in *People v. Newman*, 32 N.Y. 2d 379, [reversing] 336 N.Y.S. 2d 127, 298 N.E. 2d 651 (1973); *certiorari* denied, [414] U.S. [1163], 94 S. Ct. 927, [39 L. Ed. 2d 116] (1974). For that reason, among others, section 303(d) of the Senate amendment expressly continues the effectiveness of the current regulation promulgated by the Director of the Special Action Office for Drug Abuse Prevention. Thus, although section 502(c) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is not explicitly referred to in this legislation, the congressional intent is clear that the authority conferred by that section was not modified by Pub. L. 92–255, and is not intended to be modified by the bill now before the House.

(b) Sections 2.24 and 2.61 restate, in substance, the interpretative rules (§§ 1401.61 and 1401.62 of the previous regulations) referred to in the passage quoted in paragraph (a) of this section, modified to reflect the amendment made to section 303(a) of the Public Health Service Act (42 U.S.C. 242(a)) by Pub. L. 93–282.

Subpart C—Disclosures With Patient's Consent

§ 2.31 Written consent required.—Rules.

(a) *Form of consent.* Except as otherwise provided, a consent for a disclosure under this part must be in writing and must contain the following:

(1) The name of the program which is to make the disclosure.

(2) The name or title of the person or organization to which disclosure is to be made.

(3) The name of the patient.

(4) The purpose or need for the disclosure.

(5) The extent or nature of information to be disclosed.

(6) A statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon, and a specification of the date, event, or condition upon which it will expire without express revocation.

(7) The date on which the consent is signed.

(8) The signature of the patient and, when required under § 2.15, the signature of a person authorized to give consent under that section; or, when required under § 2.16, the signature of a person authorized to sign under that section in lieu of the patient.

(b) *Duration of consent.* Any consent given under this subpart shall have a duration no longer than that reasonably necessary to effectuate the purpose for which it is given.

(c) *Disclosure prohibited with deficient consent.* No program may disclose any information on the basis of a consent form—

(1) which on its face substantially fails to conform to any of the requirements set forth in paragraph (a), of this section, or

(2) which is known, or in the exercise of reasonable care should be known, to the responsible personnel of the program to be materially false in respect to any item required to be contained therein pursuant to paragraph (a) of this section.

(d) *Falsification prohibited.* No person may knowingly make, sign, or furnish to a program any consent form which is materially false with respect to any item required to be contained therein pursuant to paragraph (a) of this section.

§ 2.31–1 Written consent required.—Basis and purpose.

(a) The use of a consent form containing all of the elements specified in § 2.31(a) is necessary to assure compliance with the requirements of this subpart. Under § 1401.21 of the previous regulations, a much more abbreviated form was permissible, because the circumstances under which any consent could be given were very strictly limited. Now that the authorizing legislation permits disclosure with consent "to such extent, under such circumstances, and for such purposes as may be allowed under regulations," the consent form should show on its face information sufficient to indicate compliance with the regulations.

(b) Sections 2.31(b), 2.31(c), and 2.31 (d) are an exercise of the general rulemaking authority in subsection (g) of the authorizing legislation. Section 2.31 (c) imposes a legal liability on programs and their personnel for disclosure of information on the basis of a materially

deficient consent, and § 2.31(d) imposes liability on any person who submits a falsified consent form to a program.

§ 2.32 Prohibition on redisclosure.—Rules.

(a) *Notice to accompany disclosure.* Whenever a written disclosure is made under authority of this subpart, except a disclosure to a program or other person whose records pertaining to the patient are otherwise subject to this part, the disclosure shall be accompanied by a written statement substantially as follows: "This information has been disclosed to you from records whose confidentiality is protected by Federal law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure may be accompanied or followed by such a notice.

(b) *Consent required for redisclosure.* A person who receives information from patient records and has been notified substantially in accordance with paragraph (a) of this section is prohibited from making any disclosure of such information except with the specific written consent of the person to whom it pertains, or as otherwise permitted under this part.

(c) *Restriction on redisclosure.* Whenever information from patient records is needed by any person, such information must be obtained directly from the program maintaining such records and not from another person to whom disclosure thereof has been made, except where the initial disclosure was intentionally and expressly made for the purpose of redisclosure (as for example in the case of an employment agency), or the information is no longer available from the program and redisclosure is not prohibited by any other provision of this part.

§ 2.32–1 Prohibition on redisclosure.—Basis and purpose.

(a) Section 2.32 is intended to provide a reasonable protection against redisclosure of information disclosed with consent in accordance with this subpart. There is, of course, no problem where the information becomes part of a record which is itself subject to this part because it is maintained in connection with the performance of a covered substance abuse prevention function. The difficulty arises when the disclosure is made to those whose records are not otherwise affected by this part. To attempt to make all of the provisions of this part applicable to such recipients with respect to such information might raise serious problems of legality, administrative feasibility, and fairness, but where they are given actual notice that specific patient consent is normally required for redisclosure, we think they can and should be bound by it.

(b) Oral disclosures are not mandatorily covered because they should rarely be made to any recipient with whom the program does not have a continuing relationship. Where such a relationship exists or the program is otherwise satisfied that the recipient understands and will respect the confidential nature of the information supplied, there seems no need to add to the already heavy load of paperwork with which programs must contend.

§ 2.33 Diagnosis, treatment, and rehabilitation.—Rules.

(a) *Disclosure authorized.* Where consent is given in accordance with § 2.31, disclosure of information subject to this part may be made to medical personnel or to treatment or rehabilitation programs where such disclosure is needed in order to better enable them to furnish services to the patient to whom the information pertains.

(b) *Traveling, incarcerated, or hospitalized patients on medication.* Where a patent on medication is at a distance from his normal residence or treatment program or is incarcerated or hospitalized, or is otherwise unable to deliver a written consent to his treatment program at the time the disclosure is needed, confirmation of the patient's status and information necessary to appropriately continue or modify his medication may be given to medical personnel in a position to provide services to the patient upon the oral representation of such personnel that the patient has requested medication and consented to such disclosure. Any program making a disclosure in accordance with this paragraph shall make a written memorandum showing the name of the patient, or the patient's case number assigned by the program, the date and time the disclosure was made, the information disclosed, and the names of the individuals by whom and to whom it was made.

§ 2.33–1 Diagnosis, treatment, and rehabilitation.—Basis and purpose.

(a) Section 2.33(a) is a restatement of the policy set forth in § 1401.22(a) of the previous regulations, expanded to make explicit reference to nonmedical counselling and other treatment and rehabilitative services.

(b) Section 2.33(b) clarifies the corresponding provision in § 1401.22(a) of the previous regulations by specifying how and through whom oral consent can be given, and limiting the disclosure to that necessary to determine appropriate medication.

§ 2.34 Prevention of certain multiple enrollments.—Rules.

(a) *Definitions.* For the purposes of this section and § 2.55—

(1) The terms "administer", "controlled substance", "dispense", "maintenance treatment", and "detoxification treatment" shall respectively have the meanings defined in paragraphs (2), (6), (10), (27), and (28) of section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "program" means a program which offers maintenance treatment or detoxification treatment.

(3) The term "permissible central registry" means a qualified service organization which collects or accepts, from two or more programs (referred to hereinafter as member programs) all of which are located either within a given State or not more than 125 miles from the nearest point on the border of such State, patient identifying information about persons applying for maintenance treatment or detoxification treatment for the purpose of enabling the member programs to prevent any individual from being concurrently enrolled in more than one such program.

(b) *Use of central registries prohibited except as expressly authorized.* The furnishing of patient identifying information by a program to any central registry which fails to meet the definition of a permissible central registry set forth in paragraph (a)(3) of this section is prohibited, and the furnishing of patient identifying information to or by any central registry except as authorized in this section is prohibited. Information pertaining to patients held by a central registry may be furnished or used in accordance with paragraphs (e), (f), and (g) for the purpose of preventing multiple enrollments, but may not be otherwise furnished or used in connection with any legal, administrative, supervisory, or other action with respect to any patient.

(c) *Safeguards and procedures required.* To minimize the likelihood of disclosures of information to impostors or others seeking to bring about unauthorized or improper disclosure, any communications carried on by programs pursuant to this section must be conducted (1) by authorized personnel designated in accordance with § 2.17(b), and (2) in conformity with procedures established in accordance with that section.

(d) *Disclosures with respect to patients in treatment.* A member program may supply patient identifying information and information concerning the type of drug used or to be used in treatment and the dosage thereof, with relevant dates, to a permissible central registry with respect to any patient—

(1) When the patient is accepted for treatment,

(2) When the type or dosage of the drug is changed, and

(3) When the treatment is interrupted, resumed, or terminated.

(e) *Disclosures with respect to applications.* When any person applies to a program for maintenance treatment or detoxification treatment, then for the purpose of inquiring whether such person is currently enrolled in another program for such treatment, the program may furnish patient identifying information with respect to such person—

(1) To any permissible central registry of which the program is a member, and

(2) To any other program which is not more than 200 miles distant and which is not a member of any central registry of which the inquiring program is a member.

(f) *Program procedure in case of apparent concurrent enrollment.* When an inquiry pursuant to paragraph (e)(2) is made of another treatment program and its response is affirmative, the two programs may engage in such further communication as may be necessary to establish whether an error has been made, and if none, the programs should proceed in accordance with sound clinical practice and any applicable regulations pertaining to the type of treatment involved.

(g) *Registry procedure in case of apparent concurrent enrollment.* When an inquiry pursuant to paragraph (e)(1) is made of a permissible central registry and its response is affirmative, it may advise the inquiring program of the name, address, and telephone number of the other program, or it may advise the other program of the identity of the patient and the name, address, and telephone number of the inquiring program, or it may do both, and in any case the two programs may then communicate as provided in paragraph (f) above.

(h) *Advice to patients.* When the policies and procedures of any program involve any disclosures pursuant to this section, before any patient is accepted for or continued in treatment (other than detoxification treatment) after September 30, 1975, written consent in accordance with § 2.31 shall be obtained. Such consent shall set forth a current list of the names and addresses either of any programs or of any central registries to which such disclosures will be made. Notwithstanding the requirement of § 2.31(a)(2), such consent shall be effective with respect to any other such program thereafter established within 200 miles, or any registry serving such programs, and shall so state. Such consent shall be effective for as long as the patient remains enrolled in the program to which it is given.

§ 2.34–1 Prevention of certain multiple enrollments.—Basis and purpose.

Section 2.34 is based upon § 1401.43 of the previous regulations. It was omitted from the August 22, 1974 draft, but comments on the omission made it clear that in certain areas of the country, central registries are a functional component of the treatment system, and that regulations to guide their operations are needed.

§ 2.35 Legal counsel for patient.—Rules.

When a bona fide attorney-client relationship exists between an attorney-at-law and a patient, disclosure of any information in the patient's records may be made to the attorney upon the written application of the patient endorsed by the attorney. Information so disclosed may not be further disclosed by the attorney.

§ 2.35–1 Legal counsel for patient.—Basis and purpose.

Section 2.35 simplifies and broadens the statement of the policy embodied in § 1401.25 of the previous regulations. Its purpose is to assure the availability to the attorney, with his client's consent, of any information needed as a basis for advice and counsel. The purpose of the prohibition on further disclosure by the attorney is to guard against the possibility that the attorney might be forced to serve as a conduit for otherwise prohibited disclosures to third parties. Ordinarily, the attorney-client privilege would suffice, but that privilege is subject to waiver by the client, whereas this prohibition is not. Where there is a need for disclosure to a third party of any given information about any patient, this prohibition in no way affects the availability of other sections of this part to authorize such disclosure by the program.

§ 2.36 Patient's family and others.—Rule.

Where consent is given in accordance with § 2.31, information evaluating his current or past status in a treatment program may be furnished to any person with whom the patient has a personal relationship unless, in the judgment of the person responsible for the patient's treatment, the disclosure of such information would be harmful to the patient.

§ 2.36–1 Patient's family and others.—Basis and purpose.

Section 2.36 expresses the same policy as was embodied in § 1401.27 of the previous regulations, broadened to reflect the expanded authority for consensual disclosure under the authorizing legislation.

§ 2.37 Third-party payers and funding sources.—Rules.

(a) *Acquisition of information.* Disclosure of patient information to third-party payers or funding sources may be made only with the written consent of the patient given in accordance with § 2.31 and any such disclosure must be limited to that information which is reasonably necessary for the discharge of the legal or contractual obligations of the third-party payer or funding source.

(b) *Prohibition on disclosure.* Where a funding source or third-party payer maintains records of the identity of recipients of treatment or rehabilitation services for alcohol or drug abuse such records are, under the authorizing legislation, maintained in connection with the performance of an alcohol or drug abuse prevention function and are subject to the restrictions upon disclosure set forth in this part.

§ 2.37–1 Third-party payers and funding sources.—Basis and purpose.

Section 2.37 is based upon the general authority to prescribe regulations to carry out the purposes of the authorizing legislation. The great diversity of contractual arrangements and legal requirements under which the operations of third-party payers and funding sources are carried on precludes the prescription of detailed records management instructions in these regulations, even if that were otherwise desirable. The general principles set forth in § 2.37, however, should clarify the question of coverage, and where coverage exists, provide a standard which will minimize the likelihood of violations. See also § 2.12–1(g).

§ 2.38 Employers and employment agencies.—Rules.

(a) *Disclosure permitted.* Where consent is given in accordance with § 2.31, a program may make disclosures in accordance with this section.

(b) *Eligible recipients.* A program may make disclosures under this section to public or private employment agencies, employment services, or employers.

(c) *Scope of disclosure.* Ordinarily, disclosures pursuant to this section should be limited to a verification of the patient's status in treatment or a general evaluation of progress in treatment. More specific information may be furnished where there is a bona fide need for such information to evaluate hazards which the employment may pose to the patient or others, or where such information is otherwise directly relevant to the employment situation.

(d) *Criteria for approval.* A disclosure under this section may be made if, in the judgment of the program director or his authorized representative appointed as provided in § 2.17(b), the following criteria are met:

(1) The program has reason to believe, on the basis of past experience or other credible information (which may in appropriate cases consist of a written statement by the employer), that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to deny him employment or advancement because of his history of drug or alcohol abuse.

(2) The information sought appears to be reasonably necessary in view of the type of employment involved.

§ 2.38–1 Employers and employment agencies.—Basis and purpose.

Section 2.38 is based on the rulemaking power conferred by subsection (b)(1) of the authorizing legislation, and is adapted from § 1401.26 of the previous regulations. Its purpose is to allow disclosures reasonably necessary and appropriate to facilitate the employment of patients and former patients, while protecting patients against unnecessary or excessively broad disclosures. It was urged in a comment received on the August 22, 1974 draft that disclosures to employers be flatly prohibited on the ground that the employer's sole legitimate concern is with on-the-job performance. While we are not unsympathetic to this view, a countervailing consideration is that in the case of an employee or applicant who is known by the employer to have a problem with drugs or alcohol, knowledge by the employer of a genuine effort by the employee to deal with it can make the difference between a job and no job.

§ 2.39 Criminal justice system referrals.—Rules.

(a) *Consent authorized.* Where participation by an individual in a treatment program is made a condition of such in-

dividual's release from confinement, the disposition or status of any criminal proceedings against him or the execution or suspension of any sentence imposed upon him, such individual may consent to unrestricted communication between any program in which he is enrolled in fulfillment of such condition and (1) the court granting probation, or other post-trial or pretrial conditional release, (2) the parole board or other authority granting parole, or (3) probation or parole officers responsible for his supervision.

(b) *Duration of consent.* Where consent is given for disclosures described in paragraph (a) of this section, such consent shall expire sixty days after it is given or when there is a substantial change in such person's status, whichever is later. For the purposes of this section, a substantial change occurs in the status of a person who, at the time such consent is given, has been—

(1) Arrested, when such person is formally charged or unconditionally released from arrest;

(2) Formally charged, when the charges have been dismissed with prejudice, or the trial of such person has been commenced;

(3) Brought to a trial which has commenced, when such person has been acquitted or sentenced;

(4) Sentenced, when the sentence has been fully executed.

(c) *Revocation of consent.* An individual whose release from confinement, probation, or parole is conditioned upon his participation in a treatment program may not revoke a consent given by him in accordance with paragraph (a) of this section until there has been a formal and effective termination or revocation of such release from confinement, probation, or parole.

(d) *Restrictions on redisclosure.* Any information directly or indirectly received pursuant to this section may be used by the recipients thereof only in connection with their official duties with respect to the particular individual with respect to whom it was acquired. Such recipients may not make such information available for general investigative purposes, or otherwise use it in unrelated proceedings or make it available for unrelated purposes.

§ 2.39–1 Criminal justice system referrals.—Basis and purpose.

(a) On the basis of extensive written comment and oral communications received on the subject matter of § 2.39 as proposed in the May 9, 1975 notice (designated as § 2.40 in that notice), we have concluded that the latitude allowed and the conditions imposed in § 2.39 as set forth above are necessary and proper to effectuate the purposes of the authorizing legislation.

(b) From a legal standpoint, it seems highly doubtful whether, in a proceeding to revoke probation or parole, the due process requirements laid down in *Morrissey v. Brewer*, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972) and *Gagnon v. Scarpelli*, 411 U.S. 778, 93 S.Ct. 1756, 36 L.Ed.2d 636 (1973) could be met by an unsupported general evaluation by a treatment program to the effect that a patient's status or progress in treatment was unsatisfactory. Thus, if such an evaluation were all that could be communicated by a program about a particular patient's conduct during the period he was in treatment, a condition requiring satisfactory participation in a treatment program would to all intents and purposes become unenforceable. Moreover, if it were held to be enforceable, the operative decision on the revocation issue would then be made by the program, arguably exacerbating rather than alleviating its role-conflict problem. It may thus be the part of wisdom to confess that some degree of role-conflict is inherent in the situation of any program which accepts criminal justice referrals. If so, the issue then becomes that of finding the most constructive way to handle the conflict, rather than a sterile and futile effort to avoid it altogether.

(c) We are persuaded that in many instances a prohibition on free communication between probation officers and drug abuse program counsellors would have profoundly deleterious effects on the rehabilitative process. Many probation officers bring to their work a high degree of training, professionalism, and experience. They are under no illusion that they are dealing with a clientelle which will never stumble or relapse, and if they have the information necessary to intervene at an early stage of such an episode, their intervention can often make the difference between success and failure for the client.

(d) There is, however, nothing in these regulations which precludes treatment programs from entering into agreements or arrangements with agencies or institutions of the criminal justice system to regulate or restrict the subject matter or form of communications of information about patients. For example, such an arrangement might provide for free oral communication between counsellors and probation officers, while restricting formal written reports by the program to specified types of so-called hard data such as attendance and urinalysis results. In view of widely differing conditions and attitudes in various parts of the country, substantial variations in such arrangements are not only expectable but desirable.

(e) A further aspect of this matter, which was not adequately considered or dealt with in the May 9 proposal, is the impact which the rules laid down in § 2.39 have on the bail decision. There is a high correlation between the disposition of the application for bail and the type of sentence which may be meted out upon conviction. The contrast between the recidivism rates for those who receive treatment and supervision, as against those who simply receive the punishment of incarceration, is a powerful argument against restrictions which would tend to narrow the circumstances under which conscientious judges can grant bail.

(f) It must be emphasized that § 2.39 in no way reduces the necessity to obtain written consent from patients, whether or not referred by the criminal justice system, before disclosures for the purposes here involved can be made by programs. We have been urged to make an exception from the requirement of § 2.31 in the case of parolees and probationers, but such an exception would be wholly unsupported by the authorizing legislation. In fashioning these regulations, it is not our privilege to adorn a tabula rasa according to our own predilections: rather, it is our duty to interlineate a statute with fidelity to its spirit, its terms, and its purposes.

§ 2.40 Situations not otherwise provided for.—Rules.

(a) *Criteria for approval.* In any situation not otherwise specifically provided for in this subpart, where consent is given in accordance with § 2.31, a program may make a disclosure for the benefit of a patient from the records of that patient if, in the judgment of the program director or his authorized representative appointed as provided in § 2.17, all of the following criteria are met:

(1) There is no suggestion in the written consent or the circumstances surrounding it, as known to the program, that the consent was not given freely, voluntarily, and without coercion.

(2) Granting the request for disclosure will not cause substantial harm to the relationship between the patient and the program or to the program's capacity to provide services in general.

(3) Granting the request for disclosure will not be harmful to the patient.

(b) *Circumstances deemed beneficial.* For the purposes of this section, the circumstances under which disclosure may be deemed to be beneficial to a patient include, but are not limited to, those in which the disclosure may assist the patient in connection with any public or private claim, right, privilege, gratuity, grant or other interest accruing to, or for the benefit of, the patient or the patient's immediate family. Examples of the foregoing include welfare, medicare, unemployment, workmen's compensation, accident or medical insurance, public or private pension or other retirement benefits, and any claim or defense asserted or which is an issue in any civil, criminal, administrative or other proceeding in which the patient is a party or is affected

§ 2.40–1 Situations not otherwise provided for.—Basis and purpose.

(a) Section 2.40 is based upon §1401.23 of the previous regulations, amended to reflect the expansion made by the change in the law with respect to the permissible scope of consensual disclosures.

(b) A strong case can be made for the proposition that § 2.40 should, in effect if not expressly, require a program to make any disclosure requested by a patient. The discretion vested in the program, it can be argued, is at best an expression of overprotective paternalism, and at worst, an invitation to programs to cover up material potentially embarrassing to themselves. Bearing in

mind, however, that persons who have obtained the type of treatment to which this part applies are more vulnerable to pressures of various kinds than are patients in general, it seems preferable to retain some responsibility on the part of the program to protect the best interests of its patients in this very sensitive area. This, like many other choices which these regulations reflect, is a determination which can be reviewed and revised from time to time in the light of experience.

Subpart D—Disclosures Without Patient Consent

§ 2.51 Medical emergencies.—Rules.

(a) *In general.* Disclosure to medical personnel, either private or governmental, is authorized without the consent of the patient when and to the extent necessary to meet a bona fide medical emergency.

(b) *Food and Drug Administration.* Where treatment involves the use of any drug, and appropriate officials of the Food and Drug Administration determine that the life or health of patients may be endangered by an error in the manufacture or packaging of such drug, disclosure of the identities of the recipients of the drug may be made without their consent to appropriate officials of the Food and Drug Administration to enable them to notify the patients or their physicians of the problem in order that corrective action may be taken.

(c) *Incapacitated persons.* Where a patient is incapacitated and information concerning the treatment being given him by a program is necessary to make a sound determination of appropriate emergency treatment, such information may be given without the patient's consent to personnel providing such emergency treatment.

(d) *Notification of family or others.* When any individual suffering from a serious medical condition resulting from drug or alcohol abuse is receiving treatment at a facility which is within the scope of this Part the treating physician may, in his discretion, give notification of such condition to a member of the individual's family or any other person with whom the individual is known to have a responsible personal relationship. Such notification may not be made without such individual's consent at any time such individual is capable of rational communication.

(e) *Record required.* Any program making an oral disclosure under authority of this section shall make a written memorandum showing the patient's name or case number, the date and time the disclosure was made, some indication of the nature of the emergency, the information disclosed, and the names of the individuals by whom and to whom it was disclosed.

§ 2.51–1 Medical emergencies.—Basis and purpose.

The provisions of § 2.51 are adapted from § 1401.42 of the previous regulations, and are based on subsection (b)(2)(A) of the authorizing legislation. The provision in the previous regulations with respect to patients who may be incarcerated is now covered in § 2.33(b).

Paragraph (d) of § 2.51 is based upon the theory that the disclosure there allowed is of the patient's endangered condition, not his identity as a drug or alcohol abuse patient, and that the humanitarian necessity of such notification outweighs its potential for accidental violation of confidentiality.

§ 2.52 Research, audit, and evaluation.—Rules.

(a) *Research, audit, and evaluation.* Subject to any applicable specific provision set forth hereinafter in this subpart, the content of records pertaining to any patient which are maintained in connection with the performance of a function subject to this part may be disclosed, whether or not the patient gives consent, to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. For the purposes of this subpart and for the purposes of subsection (b)(2)(B) of the authorizing legislation, the term "qualified personnel" means persons whose training and experience are appropriate to the nature and level of the work in which they are engaged and who, when working as part of an organization, are performing such work with adequate administrative safeguards against unauthorized disclosures.

(b) *Use of disclosures of patient identifying information.*

(1) Where a disclosure made to any person pursuant to paragraph (a) of this section includes patient identifying information with respect to any patient, such information may not be further disclosed, and may not be used in connection with any legal, administrative, supervisory, or other action whatsoever with respect to such patient, except as provided in paragraphs (b)(2) and (b)(3) of this section.

(2) The inclusion of patient identifying information in any written or oral communication between a person to whom a disclosure has been made pursuant to paragraph (a) and the program making such disclosure does not constitute the identification of a patient in a report or otherwise in violation of paragraph (a).

(3) Where a disclosure is made pursuant to paragraph (a) of this section to a person qualified to determine, on the basis of such disclosure, the presence of a substantial risk to the health and well being, whether physical or psychological, of any patient, and, in the judgment of such person, such a risk exists and the situation cannot be dealt with solely by means of communications as described in paragraph (b)(2) of this section without intensifying or prolonging the risk as compared with other means of dealing with it, then the initial disclosure under paragraph (a) and any subsequent disclosure or redisclosure of patient identifying information for the purpose of reducing the risk to the patient involved shall be subject to the provisions of § 2.51.

§ 2.52–1 Research, audit, and evaluation.—Basis and purpose.

(a) *General purpose.* Subsection (a) of this section is adapted directly from subsection (b)(2)(B) of the authorizing legislation. The purpose of each is the same: To facilitate the search for truth, whether in the context of scientific investigation, administrative management, or broad issues of public policy, while at the same time safeguarding the personal privacy of the individuals who are the intended beneficiaries of the process or program under investigation. This subpart in particular, and this part as a whole, are intended to aid in carrying out that purpose.

(b) The succeeding sections of this subpart deal with problems which arise in connection with disclosures made for certain specific purposes which have been interpreted as falling within the general purposes embraced by § 2.52. Those sections will be best understood, however, in the light of some discussion of the underlying premises of the general rule, and its relationship to two other legal concepts: the right of privacy, and the duty to obtain informed consent from research subjects.

(c) *The Right of Privacy.* So far as is relevant to this discussion, we may consider the right of privacy in two aspects. One, a protection against improper governmental activity, is the right to be secure against unreasonable searches and seizures guaranteed by the Fourth Amendment, with some expansion from the penumbras of the Fifth and Sixth Amendments. The protections afforded to patients by the authorizing legislation, not to mention these regulations, go far beyond those which are constitutionally required.

(d) The other aspect of the right of privacy, which has sometimes been described as the right to be left alone, is the notion that an individual has a right not to be hurt by intrusions into his essentially personal concerns, or to have essentially private information exploited for commercial gain, whether or not the intrusion or exploitation is in connection with any possible governmental action against him. The courts have spoken of a right of privacy in a wide variety of contexts, but they have repeatedly and explicitly rejected the notion that anyone has a right to go about his daily affairs encapsulated in an impenetrable bubble of anonymity. The courts have been careful to weigh the competing interests, and the social interest in valid research and evaluation is clearly of sufficient moment to be considered in this process.

(e) In defense of the position that disclosure of patient identifying information even for carefully guarded scientific research should be permitted only on a consensual basis, two dominant lines of argument, somewhat interrelated, have emerged. One is that retrospective

studies are of questionable value in any case, and the other is that a sampling technique involving informed consent on the part of the members of the sample can always be used to develop the information sought. Neither line of argument will withstand careful scrutiny.

(f) It is true, of course, that the efficacy of a given therapeutic agent can often best be evaluated by means of a well-designed prospective study in which special recordkeeping procedures, special criteria for patient selection, and an appropriate control have all been established with a view to the purpose of the study. There are, however, many important investigations which simply do not lend themselves to such a format. Sometimes the desirability or even the possibility of a particular study does not suggest itself except in retrospect. Another important consideration is the fact that knowledge that an investigation is going on may influence the behavior of patients, clinicians, or both. Where such knowledge can influence the make-up of a sample, it will normally do so in the direction of favorable outcomes, but to an unknown degree, thus tending to invalidate the results reported.

(g) While the sample technique has its uses, especially with populations that are unmanageably large, it is often less difficult and expensive, and less likely to interfere with the actual conduct and outcomes of treatment or rehabilitation processes, to use the full population under study. Even more important than economy and administrative convenience in carrying out a study, there may be an overriding advantage in terms of eliminating any question as to the validity of the results of the study on the ground of bias in the selection of the sample.

(h) *Informed Consent.* The duty to obtain informed consent is obvious and compelling in situations where an individual is exposed to the possibility of harm, either physical or psychological, as a consequence of medical procedures, research, or similar activities. Where such a situation exists the person conducting the research or medical procedure violates his duty to the subject or patient if he proceeds without obtaining the voluntary informed consent from the individual or his legally authorized representative. Thus, in conducting an activity which places the subject or patient at risk the practitioner may not give precedence to a hidden agenda, even for so lofty a motive as the advancement of knowledge. In this regard, see the Department of Health, Education and Welfare's Protection of Human Subjects Regulations, 45 CFR Part 46. Those regulations are applicable to all Department of Health, Education and Welfare grants and contracts supporting research, development and related activities involving human subjects.

(i) It is apparent that the foregoing rationale for requiring informed consent does not apply to the same degree in situations involving the disclosure of clinical records for research in the form of follow-up or retrospective studies. Under these circumstances the risk to the subject is that some disclosure or misuse of information from which he could be identified might result in embarrassment, lost opportunities, or other forms of psychological or social injury. While that possibility of harm could be reduced by requiring consent to every review of clinical records for research purposes, a similar result can be achieved by the less restrictive method of limiting further disclosure of identifying information by the researcher. Given the applicability of this alternative, equally effective means for protecting a patient or subject from the possibility of a harmful public disclosure, it is unreasonable to insist upon informed consent to every review of clinical records for the purposes of conducting legitimate research, particularly since such insistence could lead to the ultimate absurdity of prohibiting efforts to identify the nature and source of an unknown plague simply because the patients or researcher lacked the clairvoyance to have consent forms signed prior to the onset of the affliction.

(j) In sum, there are restraints on certain means of governmental acquisition of information about individuals which are operative irrespective of how the information is used, and there are restraints on the uses of information which are independent of how or by whom it is acquired, but they do not and should not add up to the proposition that the use of information about a person is either morally or legally the absolute prerogative of that person to determine.

(k) For all of these reasons, the authorizing legislation expressly provides that patient consent is not required with respect to disclosures for research, audit, and evaluation, nor does it prohibit individual patient identification in connection with such disclosures. While it is entirely appropriate to impose safeguards and procedures in connection with these activities, it would be wholly inappropriate to use the rulemaking process to impose an absolute requirement of patient consent with respect to activities which by statute may be conducted without it.

(l) *Classification of activities.* It is clear that Congress intended a balancing of the social interest in the validity of the results of inquiry, on the one hand, with the individual interest in anonymity, on the other, all within the limits set by the legislation and the constitution. With that objective in mind, we may now turn to the various categories of activities which come within the purview of this subpart.

(m) These activities may be classified first, in regard to whether participation is voluntary from the standpoint of the program, and second, as to whether the objective is to ascertain compliance with predetermined standards (examinations as defined in § 2.54, and program evaluation as defined in § 2.11(g)(1)), or to ascertain the validity of a given standard or hypothesis (scientific research, and program evaluation as defined in § 2.11(g)(2)). The application of the foregoing classifications logically results in the creation of four categories of activities. Three of them are specifically dealt with in the succeeding sections of this subpart and need not detain us here; the fourth is discussed below.

(n) *Scientific research and evaluation.* Beyond the bare restatement of the authorizing legislation set forth in § 2.52, these regulations are deliberately silent with respect to purely voluntary scientific research and program evaluation in the sense defined in § 2.11(g)(2). Testimony and written comments received on the August 22, 1974 draft regulations were noteworthy in two respects. First, no instances of abuse on the part of persons acquiring patient identifying information under these circumstances were cited. Second, while there was some well-founded criticism of the attempt in that draft to provide guidelines for determining what is scientific research and who is qualified to do it, no usable alternatives—indeed, almost no alternatives at all—were forthcoming.

(o) In one of the written comments, the writer cautioned against any assumption "that our major remaining problems in drug and alcohol abuse treatment are prevention of illicit diversion and protection of confidentiality," and suggested "that we still have a problem in discovering, testing and evaluating improved treatment techniques. To do this," he continued, "one should place minimal obstacles in the way of bona fide clinical and epidemiologic research!"

(p) The result of leaving the rule as it is in the statute, without attempting to sharpen its outlines or define its terms, will be to leave it for interpretation on a case-by-case basis by those who must apply it in practice: the researchers who seek the information, and the programs which supply it. This does not foreclose the possibility of amending the regulations on the basis of experience if it appears either that clinicians are becoming so cautious that research and evaluation studies are being choked off, or that abuses are occurring in the use of information disclosed. But until a need for more detailed regulation in this area is demonstrated, we think its imposition would do more harm than good.

§ 2.53 Governmental agencies.—Rules.

(a) *In general.* Where research, audit, or evaluation functions are performed by or on behalf of a State or Federal governmental agency, the minimum qualifications of personnel performing such functions may be determined by such agency, subject to the provisions of this part, with particular reference to the organizational requirements and limitations on the categories of records subject to review by different categories of personnel.

(b) *Financial and administrative records.* Where program records are reviewed by personnel who lack either the responsibility for, or appropriate training and supervision for, conducting scientific research, determining adherence to treatment standards, or evaluating treatment as such, such review should be confined as far as practicable to adminis-

trative and financial records. Under no circumstances should such personnel be shown caseworker or counsellor notes, or similar clinical records. Programs should organize their records so that financial and administrative matters can be reviewed without disclosing clinical information and without disclosing patient identifying information except where necessary for audit verification.

(c) *Scientific research and long-term evaluation studies.* No State and no agency or political subdivision of a State may require, as a condition to funding, licensing, or otherwise, that any program furnish patient identifying information for the purpose of conducting scientific research or long-term evaluation studies unless the recipient of such information is legally required to hold such information in confidence, is prohibited from taking any administrative, investigative, or other action with respect to any individual patient on the basis of such information, and is prohibited from identifying, directly or indirectly, any individual patient in any report of such research or evaluation, or otherwise disclosing patient identities in any manner.

(d) *Opinion and description to be furnished program.* Before any patient identifying information is required to be submitted by a program under the circumstances described in paragraph (c), the program shall be furnished—

(1) An opinion by the attorney general or other chief legal officer of the State to the effect that the conditions specified in paragraph (c) are fulfilled with respect to such program or with respect to all programs in such State similarly situated, and

(2) A description of the administrative procedures and physical limitations on access or other measures to provide for the security of the data, but such description shall not be in such detail as to furnish guidance for wrongful attempts to breach such security.

(e) *Exclusiveness of procedures.* No State or local governmental agency may require any treatment program to furnish patient identifying information to itself or any other recipient except in conformity with this section or § 2.54. No Federal agency may require any treatment program to furnish patient identifying information to itself or any other recipient except in conformity with this section (other than paragraph (d) (1) thereof) or § 2.54.

§ 2.53–1 Governmental agencies.—Basis and purpose.

Section 2.53 is an implementation of the authority contained in subsection (g) of the authorizing legislation to provide safeguards and procedures to effectuate the purposes of such legislation. It makes clear that whenever information is required of a program, whether by law or by the terms or conditions of a contract or grant, the procedures and safeguards required under this section are applicable.

§ 2.54 Patient identifying information in connection with examinations.—Rules.

(a) *Definitions.* For the purposes of this section—

(1) The term "examination" means any examination to which this section is made applicable by paragraph (b) of this section.

(2) The term "examiner" means any individual or any public or private organization, including any Federal, State, or local governmental agency, which conducts an examination to which this section applies.

(b) *Applicability.* This section applies to any examination of the records of a treatment program which is carried out for the purpose of or as aid to ascertaining the accuracy or adequacy of its financial or other records, or the efficiency or effectiveness of its financial, administrative, or medical management, or its adherence to financial, legal, medical, administrative, or other standards, regardless of whether such examination is called an audit, an evaluation, an inspection, or by any other name.

(c) *Statement required for disclosure of patient identifying information in connection with examination.* No program may make, and no examiner may require, any disclosure of patient identifying information in connection with an examination unless the examiner furnishes to the program a written statement—

(1) that no record of patient identifying information will be made or retained by or on behalf of the examiner in connection with the examination without notice to the program in accordance with paragraph (c) (2) of this section, or

(2) setting forth the specific purpose for which a record of patient identifying information is being retained by or on behalf of the examiner, the location at which such information will be kept, and the name, official title, address, and telephone number of a responsible individual to whom any inquiries by the program about the disposition of such record should be directed.

(d) *Disposition of record of patient identifying information in connection with examination.* After any record of patient identifying information retained in connection with an examination has served its purpose, or within the time prescribed in paragraph (e) of this section, whichever is earlier, the examiner shall destroy or return to the program all records (including any copies thereof) containing patient indentifying information which have been in its possession in connection with such examination.

(e) *Maximum time allowed for disposition.* The action required by paragraph (d) shall be completed—

(1) Except as provided in paragraph (e) (2) of this section not more than two years after the record was acquired by or on behalf of the examiner, or

(2) Where the record is needed in connection with a formal legal proceeding against the program commenced or to be commenced not more than two years after the record was acquired, and written notice to this effect is furnished to the program within two years after the record was acquired, not later than the termination of such proceeding.

(f) *Notice of final disposition.* When an examiner disposes of records as required by paragraph (d) of this section, or not later than the time prescribed by paragraph (e) of this section, whichever is earlier, the examiner shall furnish to the program concerned a written statement—

(1) That there has been compliance with this section and with the provisions of this part prohibiting any disclosure of patient identifying information from records held by auditors or evaluators, or

(2) Specifying the particulars in which there has been a failure of compliance.

§ 2.54–1 Patient identifying information in connection with examinations.—Basis and purpose.

Confidence on the part of treatment program personnel in the integrity of auditing and regulatory processes is important to the effective functioning of the treatment system. It is the purpose of § 2.54 to foster practices which will both justify and engender such confidence.

§ 2.55 Supervision and regulation of narcotic maintenance and detoxification programs.—Rules.

(a) *Definition of "registrant".* For the purposes of this section, the term "registrant" means a person who (1) has pending an application for registration under section 303(g) of the Controlled Substances Act (21 U.S.C. 823 (g)), or (2) has been registered under such section and whose registration has not expired or been surrendered or revoked.

(b) *Drug Enforcement Administration.* Duly authorized agents of the Drug Enforcement Administration shall have access to the premises of registrants for the purpose of ascertaining compliance (or ability to comply) with standards established by the Attorney General under section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) respecting the security of stocks of narcotic drugs and the maintenance of records (in accordance with section 307 of the Controlled Substances Act, 21 U.S.C. 827) on such drugs. Registrants shall maintain such records separate from and in addition to patients' clinical records required to be maintained under 21 CFR 310.505 (d) (7) (iii), which shall not be available to such agents except as authorized under a court order in accordance with Subpart E of this part. Records maintained by registrants for the purposes of section 307 of the Controlled Substances Act (21 U.S.C. 827) need not identify patients by name, address, social security number, or otherwise except by an identifying number assigned by the registrant, but where such a system is used, the registrant shall maintain on a current basis a cross-index referencing each identifying number to the name and address of the patient to whom it refers. Upon request at any time and without advance notice, but subject to the pro-

visions of § 2.54, such agents shall be granted immediate access to any such index. Such agents may use names and addresses so obtained strictly for the purposes of auditing or verifying program records, and shall exercise all reasonable precautions to avoid inadvertent disclosure of patient identities to third parties. Names and other identifying information so obtained may not be compiled or used in any registry or personal data bank of any description.

(c) *Food and Drug Administration.* Duly authorized agents of the Food and Drug Administration shall have access to the premises of registrants and to all records maintained by registrants, for the purpose of ascertaining compliance (or ability to comply) with standards established by the Secretary of Health, Education and Welfare under section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 257a), sections 303(g)(1) and 303(g)(3) of the Controlled Substances Act (21 U.S.C. 823(g)(1) and 823(g)(3)), and sections 505 and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 and 371(a)). When necessary in the conduct of their duties, and subject to the provisions of § 2.54, agents may use names and addresses of patients strictly for the purposes of auditing or verifying program records, and shall exercise all reasonable precautions to avoid inadvertent disclosure of patient identities to third parties. Names and other identifying information on patients obtained pursuant to this section or by any other compulsory process may not be compiled or used in any registry or personal data bank of any description. Except as authorized under this paragraph or by a court order granted under Subpart E of this part, (1) such agents may not, either orally or in writing, except in conversation with personnel of the registrant while on the premises of the registrant, identify any patient otherwise than by reference to an identifying number assigned by the registrant, and (2) such agents may not remove from the premises of the registrant any notes, documents, or copies thereof which contain patient identifying information.

(d) *State drug law enforcement agencies.* Duly authorized agents of any State drug law enforcement agency having jurisdiction and specific responsibility by statute or otherwise for the enforcement of criminal laws relating to controlled substances (as defined in the Controlled Substances Act) shall have access to the premises of any registrant for the purposes (with respect to corresponding provisions, if any, of State law) and subject to the restrictions and limitations set forth in paragraph (b) of this section, and subject to § 2.54.

(e) *State health authorities.*

(1) *Definition of "qualified State health agency".* As used in this paragraph, the term "qualified State health agency" means an agency of State government (i) which has express legal responsibility to ascertain that registrants under its jurisdiction comply with appropriate treatment standards; (ii) which is legally and administratively separate from any agency of State government responsible for investigation of violations of, or enforcement of, criminal law generally or criminal laws relating to controlled substances; (iii) whose personnel are qualified by training or experience to conduct inspections of health care facilities to ascertain compliance with treatment standards; and (iv) whose personnel are by State law, or by published administrative directive enforced by effective sanctions, required to maintain the confidentiality of any information concerning the identity of patients which they may acquire in the course of their official duties.

(2) *Access.* Duly authorized agents of a qualified State health agency shall have access to the premises of registrants and to all records maintained by registrants, for the purpose of ascertaining compliance (or ability to comply) with treatment standards (including those relating to quantities of narcotic drugs which may be provided for unsupervised use by individuals in treatment) established under State law. Such access, and the use of any information thereby obtained, shall be subject to the restrictions and limitations set forth in paragraph (c) of this section, and subject to § 2.54.

§ 2.55–1 Supervision and regulation of narcotic maintenance and detoxification programs.—Basis and purpose.

(a) Section 2.55 is addressed to the general problem described in the following passage from the legislative history of Pub. L. 93–282:

> A major element of the task of fashioning new regulations pursuant to the express rulemaking authority conferred by this legislation will be to reconcile the sometimes conflicting interests of research, audit, and evaluation with rights of privacy and the confidentiality of the relationship between patient and clinician. Such a reconciliation becomes particularly crucial where the functions of research, audit, or evaluation are conducted by a governmental agency with regulatory powers and responsibility, and the treatment involves the use of a drug such as methadone which is in a research status or which is readily susceptible of misuse or illicit diversion.
>
> Because of the difficulty and complexity of the task, the rulemaking authority is intentionally cast in terms broad enough to permit the limitation of the scope, content, or circumstances of any disclosure under subsection (b), whether (b)(1) or (b)(2), in the light of the necessary purposes for which it is made or required. (Congressional Record, daily edition, May 6, 1974, page H3583).

(b) It has been the consistent interpretation of the Special Action Office for Drug Abuse Prevention that the only provision of the authorizing legislation which permits disclosures to compliance officers, whether of DEA, FDA, or state agencies, is subsection (b)(2)(B). That subsection strictly prohibits any further disclosure of names or other identifying information concerning patients, and the statutory prohibition has been buttressed by provisions of these regulations, notably § 2.54, providing safeguards and procedures to assure that the statutory prohibition is respected.

(c) In testimony and written comment on the August 22, 1974 draft of these regulations, it has been urged that access to patient identifying information by law enforcement personnel, even for the limited purposes allowed by statute and regulation, should be prohibited except pursuant to a court order obtained under 21 U.S.C. 1175(b)(2)(C). We believe that such a prohibition is beyond our power to impose.

(d) Section 307(b) of the Controlled Substances Act (21 U.S.C. 827) provides, in pertinent part, "Every * * * record required under this section * * * shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General." It is a well known principle of statutory construction that amendments and repeals by implication are not favored. In *People v. Newman*, 32 N.Y.2d 379, 345 N.Y.S.2d 502, 298 N.E.2d 651 (1973), cert. denied 414 U.S. 1163, 94 S.Ct. 927, 39L. Ed. 2d 116 (1974), the United States filed *amicus* briefs with the Court of Appeals of New York and with the United States Supreme Court, arguing that section 408 of Pub. L. 92-255 (21 U.S.C. 1175) did not effect an implied amendment or repeal of the provisions of Pub. L. 91-513 (21 U.S.C. 872(c) and 42 U.S.C. 242a(a)) which confer on the Attorney General and the Secretary of Health, Education, and Welfare the power to grant the so-called research privilege discussed in § 2.24. This position was expressly adopted by the New York court. We cannot now take the inconsistent position that section 408 of Pub. L. 92-255 did indeed amend by implication section 307 of Pub. L. 91-513, particularly in the face of a contrary contemporaneous administrative interpretation by both the Special Action Office for Drug Abuse Prevention and the Department of Justice. In short, if the right of access and copying conferred on Federal agents by 21 U.S.C. 827 is to be amended to provide that it may only be exercised pursuant to a court order in the case of maintenance and detoxification programs, that is a change which must be wrought by the Congress.

(e) In the case of inspections carried out by health supervisory agencies, we think that denial of access to any documents showing patient identifying information may have a serious adverse effect on the validity of the inspection process. Even if a program keeps its own records in terms of patient-identifying numbers assigned by the program, the patient file may contain—may, indeed, be required to contain—documents signed by the patient or originating outside the program. Where signatures, names, and addresses are all obliterated, it is impossible for the inspector to check the file even for apparent internal consistency. We believe that outright forgery is and will remain a rarity, but the temptation to cover improper or inadequate documentation by "accidental misfilings" may be something else again.

(f) From a legal standpoint, the term "audit" has long comprehended the notion of external verification. In a commercial setting, this means that at least some inventory will actually be counted, at least some receivables will be verified by contacting the customers, and so on. To rule that this crucial aspect of the audit process cannot be carried out with respect to a treatment program until after the auditor goes through the procedure of obtaining a specific court order under subsection (b)(2)(C) would seem to contravene the intent of subsection (b)(2)(B).

(g) In all of this, our decisions must be illuminated by a balanced consideration of the best interests of the patient no less than a desire to foster the implementation of cherished values in society at large. If protection of the patient's right to privacy is achieved by means which seriously impair our ability to protect him from exploitation and malpractice, not to mention the diversion of funds intended for his benefit, it would be a hollow victory indeed. We believe that the procedures and safeguards which these regulations impose on the conduct of audits and evaluations will avoid that result, while affording substantial and meaningful new protection to the confidentiality of patient records.

§ 2.56 Prohibition on disclosure of patient identities from research, audit, or evaluation records—Rules.

Where the content of patient records has been disclosed pursuant to this subpart for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State. This prohibition does not affect the accessibility of the original records under authority of a court order referred to in subpart E.

§ 2.56–1 Prohibition on disclosure of patient identities from research, audit, or evaluation records—Basis and purpose.

Section 2.56 restates the prohibition on further disclosure which is contained in subsection (b)(2)(B) of the authorizing legislation. The relationship of the provisions authorizing court orders to the provisions authorizing disclosure for research, audit, and evaluation, is dealt with in § 2.62.

Subpart E—Court Orders

§ 2.61 Legal effect of order—Rules.

Subsection (b)(2)(C) of the sections which authorize this part (21 U.S.C. 1175 and 42 U.S.C. 4582) empowers the courts, in appropriate circumstances, to authorize disclosures which would otherwise be prohibited by subsection (a) of those sections. Subsection (b)(2)(C) operates only as a mechanism for the relief of the duty imposed by subsection (a) and not as an affirmative grant of jurisdiction to authorize or compel disclosures prohibited or privileged by other provisions of law, whether Federal or State. An order or provision of an order based on some other authority, or a subpoena, or other appropriate legal process, is required to compel disclosure. To illustrate, if a person who maintains records subject to this part is merely requested, or is even served with a subpoena, to disclose information contained therein in a manner prohibited in the absence of a court order, he must refuse such a request unless, and until, an order is issued under subsection (b)(2)(C). Such an order would remove the prohibition, but could not, of its own force, require disclosure. If there were no subpoena or other compulsory process, or a subpoena had been issued but had expired or been quashed, the custodian of the records would have discretion as to whether to disclose the information sought unless and until disclosure were ordered by means of appropriate legal or administrative process, the authority for which would have to be found in some source other than subsection (b)(2)(C) of the sections authorizing this part.

§ 2.61–1 Legal effect of order—Basis and purpose.

(a) Section 2.61 is a restatement of the interpretative rules embodied in §§ 1401.61 and 1401.62 of the previous regulations. Both the positioning of the authority to issue court orders in S. 2097 as initially passed by the Senate (92nd Congress, 1st Session, December 2, 1971) and the explicit cross-reference in section 408(a) of Pub. L. 92–255 make clear the congressional intent that section 408(b)(2)(C) operate as a mechanism for the relief of the 408(a), strictures and not as an affirmative grant of jurisdiction to authorize disclosures prohibited by other provisions of law, whether Federal or State.

(b) The amendment made by Pub. L. 93–282 to section 333 of the Alcoholism Act (42 U.S.C. 4582) was enacted with the same language and structure as section 408 in this regard in order to make the interpretative rules set forth in § 2.61 applicable to it.

§ 2.62 Inapplicability to secondary records—Rules.

The authority which subsection (b)(2)(C) of the sections which authorize this part (21 U.S.C. 1175 and 42 U.S.C. 4582) confers on courts to issue orders authorizing the disclosure of records applies only to records referred to in subsection (a) of such sections, that is, the records maintained by treatment or research programs which have patients, and not to secondary records generated by the disclosure of the subsection (a) records to researchers, auditors, or evaluators pursuant to subsection (b)(2)(B).

§ 2.62–1 Inapplicability to secondary records—Basis and purpose.

(a) The interpretative rule set forth in § 2.62 is an essential and basic limitation on the scope of (b)(2)(C) orders. It was part of the original regulations under section 408 of Pub. L. 92–255 published November 17, 1972 (37 FR 24638), and was carried forward unchanged in the amended regulations published December 6, 1973 (38 FR 33748), the special status of which has already been noted in § 2.3. See, also, § 2.61–1.

(b) Although this rule is well supported by the history and technical structure of the legislation, the policy considerations in its favor are even more compelling. In § 2.52–1, we have discussed the urgent necessity for access, even without patient consent, to patient records on the part of qualified personnel engaged in scientific research and evaluation. Where this access includes patient identifying information, as it sometimes must if vital work is to be done, there must not be any question whatsoever about the legal inviolability of its confidential status in the hands of the researcher. Granted, there may occur rare occasions when the original records are for some reason not available, where a (b)(2)(C) order would lie as to the original records, and where there would seem to be some advantage in the administration of justice for such an order to permit disclosure of identifying information by the researcher. But compared to the damage which the mere potentiality for access does to the whole research enterprise, the advantage in terms of ability to deal with rare and anomalous cases seems almost trivial. Even in those cases, denial of access to the party seeking the information leaves him in no worse position than if the research or evaluation, which was certainly not undertaken for his benefit, had never been done at all.

(c) Where the secondary records are generated under the circumstances described in § 2.54, of course, this argument does not apply. In that situation, if preliminary examination suggests that the records may be needed for compliance or other administrative or judicial proceedings, the person conducting the audit or other examination should promptly seek the authority of a court order to copy the original records. The use of secondary records thus generated under authority of a court order would then be limited by the terms and purposes of the order, rather than subsection (b)(2)(B) of the authorizing legislation, and thus the rule set forth in § 2.62 would not apply.

§ 2.63 Limitation to objective data—Rules.

(a) *Limitation to objective data.* Except as provided in paragraph (b) of this section, the scope of an order issued pursuant to this subpart may not extend to communications by a patient to personnel of the program, but shall be limited to the facts or dates of enrollment, discharge, attendance, medication, and similar objective data, and may include only such objective data as is necessary to fulfill the purposes for which the order is issued.

(b) *Exception.* When a patient in litigation offers testimony or other evidence pertaining to the content of his communications with a program, an order under this subpart may authorize

the submission of testimony or other evidence by the program or its personnel.

§ 2.63–1 Limitation to objective data.—Basis and purpose.

In the three-year period subsequent to the original enactment of 21 U.S.C. 1175, not a single occasion was reported to the Special Action Office for Drug Abuse Prevention on which an attempt was made to secure a (b)(2)(C) order authorizing the disclosure of a confidential communication by a patient to a counsellor or other member of the staff of a treatment program. In all of the comments and testimony received on the draft regulations published August 22, 1974, there was nothing to suggest any circumstances under which a court order authorizing such a disclosure would be either desirable or appropriate. Yet the mere possibility that such an order might be issued is to some a source of anxiety which impairs the effectiveness of treatment. Such an ongoing negative effect clearly outweighs the remote theoretical possibility that some peculiar circumstance might arise in which judicial authorization for such a disclosure might be sought. Accordingly, the limitation imposed by § 2.63 on the scope of (b)(2)(C) orders to preclude that possibility, and hence to eliminate its adverse influence on treatment services, appears to be a proper exercise of rulemaking power.

§ 2.64 Procedures and criteria in general—Rules.

(a) *Identity of patient.* Applications for court orders to authorize disclosure of records pertaining to a known patient shall not use the real name of the patient unless the patient consents thereto voluntarily and intelligently. In the case of an *ex parte* application initiated by the patient, the application should be instituted in the name of a fictious person, such as Jon Doe, unless the patient requests otherwise. The same procedure should be followed in the case of a separate proceeding held in conjunction with a pending criminal or civil action. Any court order should identify the patient fictitiously, and the disclosure of the patient's real name should be communicated to the program in such manner as to protect the confidentiality of the patient's identity.

(b) *Notice.* In any proceeding not otherwise provided for in this subpart, in which the patient or the program has not been made a party, each shall be given appropriate notice and an opportunity to appear in person or to file a responsive statement, deposition or other form of response consistent with local rules of procedure. The court shall give due consideration to any such statement, deposition or other response in exercising its discretion as to the existence of good cause and, if deemed necessary or desirable, consistent with local rules of procedure, it may order the program director to appear and give direct testimony.

(c) *Hearings.* All hearings and all evidence in connection therewith shall be held or taken in the judge's chambers, unless the patient requests an open hearing or the court determines that such hearing is consistent with the public interest and the proper administration of justice.

(d) *Good cause.* No order shall be issued unless the record shows that good cause exists, and in assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(e) *Need for disclosure.* If other competent evidence or sources of information are available, the court should ordinarily deny the application.

(f) *Adverse effects.* If there is evidence that disclosure would have an adverse effect upon successful treatment or rehabilitation of the patient or would impair the effectiveness of the program, or other programs similarly situated, in the treatment or rehabilitation of other patients, the application should be denied unless the court finds that the adverse effects are outweighed by other factors.

(g) *Content of order.* Any order authorizing disclosure shall—

(1) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted;

(2) Limit disclosure to those persons whose need for information is the basis for the order; and

(3) Include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship and the treatment services.

(h) *Applications not otherwise provided for.* In any case not otherwise provided for in this subpart, application for an order authorizing disclosure of records to which this part applies may be made by any person who has a legally cognizable interest in obtaining such disclosure.

§ 2.64–1 Procedures and criteria in general.—Basis and purpose.

Section 2.64, in accordance with subsection (g) of the authorizing legislation, sets out procedures and criteria for the issuance of (b)(2)(C) orders in general, subject to the more specific provisions with respect to particular types of proceedings covered in the succeeding sections of this subpart.

§ 2.65 Investigation and prosecution of patients.—Rules.

(a) *Applicability.* This section applies to any application by an investigative, law enforcement, or prosecutorial agency for an order to permit disclosure of patient records for the purpose of conducting an investigation or prosecution of an individual who is, or who is believed to be, a present or former patient in a program.

(b) *Notice.* Except where an order under § 2.66 is sought in conjunction with an order under this section, any program with respect to whose records an order is sought under this section shall be notified of the application and afforded an opportunity to appear and be heard thereon.

(c) *Criteria.* A court may authorize disclosure of records pertaining to a patient for the purpose of conducting an investigation of or a prosecution for a crime of which the patient is suspected only if the court finds that all of the following criteria are met:

(1) The crime was extremely serious, such as one involving kidnapping, homicide, assault with a deadly weapon, armed robbery, rape, or other acts causing or directly threatening loss of life or serious bodily injury, or was believed to have been committed on the premises of the program or against personnel of the program.

(2) There is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) There is no other practicable way of obtaining the information or evidence.

(4) The actual or potential injury to the physician-patient relationship in the program affected and in other programs similarly situated, and the actual or potential harm to the ability of such programs to attract and retain patients, is outweighed by the public interest in authorizing the disclosure sought.

(d) *Scope.* Both disclosure and dissemination of any information from the records in question shall be limited under the terms of the order to assure that no information will be unnecessarily disclosed and that dissemination will be no wider than necessary. Under no circumstances may an order under this section authorize a program to turn over patient records in general, pursuant to a subpoena or otherwise, to a grand jury or a law enforcement, investigative, or prosecutorial agency.

(e) *Counsel.* Any application to which this section applies shall be denied unless the court makes an explicit finding to the effect that the program has been afforded the opportunity to be represented by counsel independent of counsel for the applicant, and in the case of any program operated by any department or agency of Federal, State, or local Government, is in fact so represented.

§ 2.65–1 Investigation and prosecution of patients—Basis and purpose.

(a) The need for objective criteria for the issuance of court orders in connection with investigation or prosecution of patients seems particularly pressing. In the absence of such criteria, the assurance of confidentiality otherwise provided for by the authorizing legislation may be felt to be of little value.

(b) It has not been found possible to frame entirely satisfactory rules for the scope of orders under § 2.65, but an illustration may be helpful. Where a witness to a crime is believed capable of identifying a suspect by appearance, and the criteria set forth in § 2.65(c) are met, and the program has photographs of its patients, the witness alone may be permitted to view the photographs, with no names attached. If the witness failed to identify any photograph as being a pic-

ture of the suspect, that would end the matter. If there was such an identification, the program would be authorized to give any information in its possession as to the suspect's identity and whereabouts to appropriate authorities.

(c) It is not the purpose of this section to substitute a mechanical formula for judicial discretion, but rather to provide criteria which define the area within which discretion is to be exercised. The reason for including all crimes committed on program premises or against program personnel is not any special solicitude for programs as opposed to other victims of crime, but is rather the result of the special difficulties which the broad definition of "records" in § 2.11(o) creates for program personnel as complaining witnesses.

(d) In regard to § 2.65(e), experience has demonstrated that independent counsel may be of crucial importance. The leading case construing 21 U.S.C. 1175, *People v. Newman*, 32 N.Y.2d 379, 345 N.Y.S.2d 502, 298 N.E.2d 651 (1973); certiorari denied, 414 U.S. 1163, 94 S.Ct. 927, 39 L. Ed.2d 116 (1974), would never have been presented to the courts but for the fact that legal counsel for Dr. Newman was furnished on a *pro bono publico* basis by a private law firm. In an entirely different case, a United States District Court appears to have issued a wholly inappropriate order under 21 U.S.C. 1175 in a case in which the treatment program involved was operated by an agency of the United States Government, and either was unrepresented, or was represented by the same attorney who represented the agency seeking the order. It is possible, of course, that the order would have been issued in any event, but it seems clear that there was no adequate presentation to the court of arguments or testimony in opposition. It is difficult to see how the purposes of subsection (b)(2)(C) of the authorizing legislation can be carried out if there is inadequate presentation of the issues to the courts which must decide them.

§ 2.66 Investigation and prosecution of programs.—Rules.

(a) *Applicability.* This section applies to any application by an administrative, regulatory, supervisory, investigative, law enforcement, or prosecutorial agency for an order to permit disclosure of patient records or the making of copies thereof (including patient identifying information) for the purpose of conducting an investigation or an administrative or judicial proceeding with respect to any program or any principal, agent, or employee thereof in his capacity as such.

(b) *Notice.* An application under this section may, in the discretion of the court, be granted without notice, but upon the implementation of any order so granted, the program shall be afforded an opportunity to seek the revocation or amendment of such order.

(c) *Scope.* Both disclosure and dissemination of any information from the records in question shall be limited under the terms of the order to assure that patient identities will be protected to the maximum practicable extent, and that names and other identifying characteristics of patients are expunged from any documents placed in any public record. No information obtained pursuant to an order under this section may be used to conduct any investigation or prosecution of a patient, or be used as the basis for an application for an order under § 2.65.

§ 2.66–1 Investigation and prosecution of programs—Basis and purpose.

The principal purpose of § 2.66 is to enable a regulatory agency whose inspection or other source of information has disclosed a need for follow-up, or which has been refused access to patient records, to obtain the necessary authorization for access and copying. There may also be rare instances, such as those involving financial fraud, tax evasion, or other offenses where access by other investigative agencies is necessary, subject to the requirements and protections of this part.

§ 2.67 Undercover agents and informants—Rules.

(a) *Applicability.* This section applies to any application by an administrative, regulatory, supervisory, investigative, or law enforcement agency for an order to permit such agency to have an undercover agent or informant in a program under circumstances which would otherwise be prohibited under § 2.19.

(b) *Notice.* An order under this section may be granted without notice where the criminal conduct for the investigation of which it is granted is believed to be carried on by the program director or by any employee or agent of the program with the knowledge of the program director or under such circumstances that in the exercise of reasonable care the program director should know of such conduct. Under any other circumstances, an order under this section may be granted only after the program director has been afforded notice and opportunity for hearing.

(c) *Criteria.* An order under this section may be granted only where there is reason to believe that a program or any principal, agent, or employee thereof is engaged in serious criminal misconduct, and that other means of securing evidence of such criminal misconduct are not available or would not be effective.

(d) *Scope.* An order granted pursuant to this section may authorize the use by the applicant of an undercover agent or informant, either as a patient or as an employee, of the program in question.

(e) *Time periods.* An order under this section may not authorize the use of an undercover agent for an initial period exceeding 60 days. At any time prior to the expiration of such 60-day period, the applicant may apply for an order extending such period for an additional period not to exceed 60 days, but in no event may the use of an undercover agent in any program be authorized for more than 180 days in any period of 12 consecutive months.

(f) *Duty of agent.* Except to the extent expressly authorized in an order under this section, which shall be limited to disclosure of information directly related to the purpose for which the order is granted, an undercover agent or informant shall for the purposes of this part be deemed an agent of the program within which he is acting as such, and as such shall be subject to all of the prohibitions of this part applicable to disclosures of any information which he may acquire.

§ 2.67–1 Undercover agents and informants—Basis and purpose.

The legal rationale underlying this section has been set forth in § 2.19–1. It is expected that this section will find its principal and perhaps its exclusive application in the area of drug law enforcement. Experience has demonstrated that medical personnel, no matter how credentialed, can engage in the illicit sale of drugs on a large scale, and that the use of undecover agents and informants is normally the only effective means of securing evidence sufficient to support a successful prosecution.

[FR Doc.75–17169 Filed 6–27–75;9:38 am]

Title 21—Food and Drugs

CHAPTER III—SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

PART 1401—CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORDS

Revocation of Part

On May 9, 1975, there was published in the FEDERAL REGISTER (40 FR 20542) a notice of proposed rulemaking proposing the revocation of Part 1401 of Title 21 of the Code of Federal Regulations by reason of the proposed incorporation of its subject matter in a new Part 2 of Title 42 of the Code of Federal Regulations.

Interested persons were invited to submit written comments, views or arguments with respect to the proposed revocation, within 30 days of the date of publication of that notice. None were received, except to the extent that they were implicit in those submitted on the proposed new Part 2 of Title 42 of the Code of Federal Regulations, which were duly considered.

Accordingly, pursuant to the authority of section 408 of the Drug Abuse Office and Treatment Act of 1972, as amended by Pub. L. 93–282 (21 U.S.C. 1175), and under the authority delegated to the General Counsel (39 FR 17901, May 21, 1974), Part 1401 of Title 21 of the Code of Federal Regulations is revoked, effective August 1, 1975.

Dated: June 25, 1975.

GRASTY CREWS, II,
General Counsel, Special Action Office for Drug Abuse Prevention.

[FR Doc.75–17170 Filed 6–27–75;9:38 am]

RECORD PRESS, INC., 95 MORTON ST., NEW YORK, N. Y. 10014—(212) 243-5775